United States Court of Appeals

for the Second Circuit

EXHIBITS

76-7476

United States Court of Appeals
For The Second Circuit

No. 76-7476

NEWBURGER, LOEB & CO., INC. as Assignee of Claims of David Buckley and Mary Buckley,
Plaintiff-Appellant-Cross-Appellee,

against

CHARLES GROSS, MABEL BLEICH, GROSS & CO., and JEANNE DONOGHUE,
Defendants-Appellees-Cross-Appellants,

NEWBURGER, LOEB & CO., a New York Limited Partnership, ANDREW M. NEWBURGER, ROBERT L. NEWBURGER, RICHARD D. STERN, WALTER D. STERN, and ROBERT L. STERN as Executors of the Estate of Leo Stern, ROBERT L. STERN, RICHARD D. STERN, JOHN F. SETTEL, HAROLD J. RICHARDS, SANFORD ROGGENBURG, HARRY B. FRANK and JEROME TARNOFF as Executors of the Estate of Ned D. Frank, FRED KAYNE, ROBERT MUH, PAUL RISHER, CHARLES SLOANE, ROBERT S. PERSKY, FINLEY, KUMBLE, WAGNER, HEINE, UNDERBERG & GRUTMAN, a Partnership, (formerly known as Finley, Kumble, Underberg, Persky & Roth and Finley, Kumble, Heine, Underberg & Grutman) and LAWRENCE J. BERKOWITZ,

Additional Defendants on Counterclaims-Appellants-Cross-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES COURT OF APPEALS
FILED
FEB 4 1977
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

JOINT APPENDIX—EXHIBITS
Volume II—E-359–E-747

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D E F E N D A N T S ' E X H I B I T S

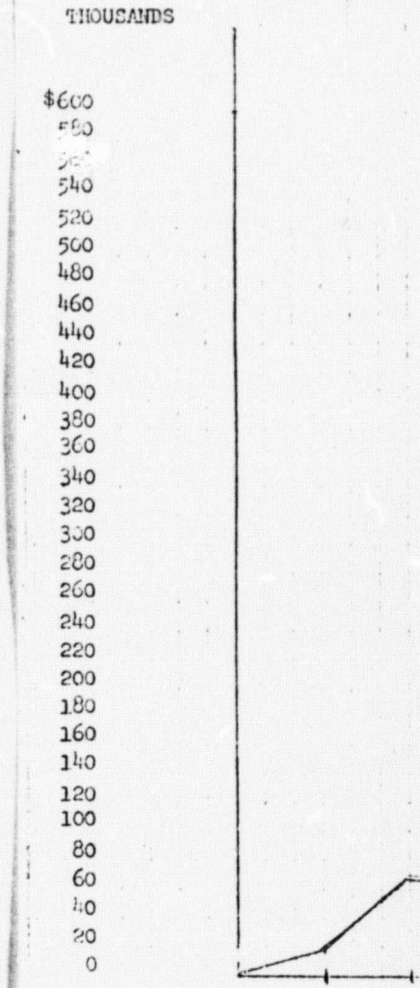
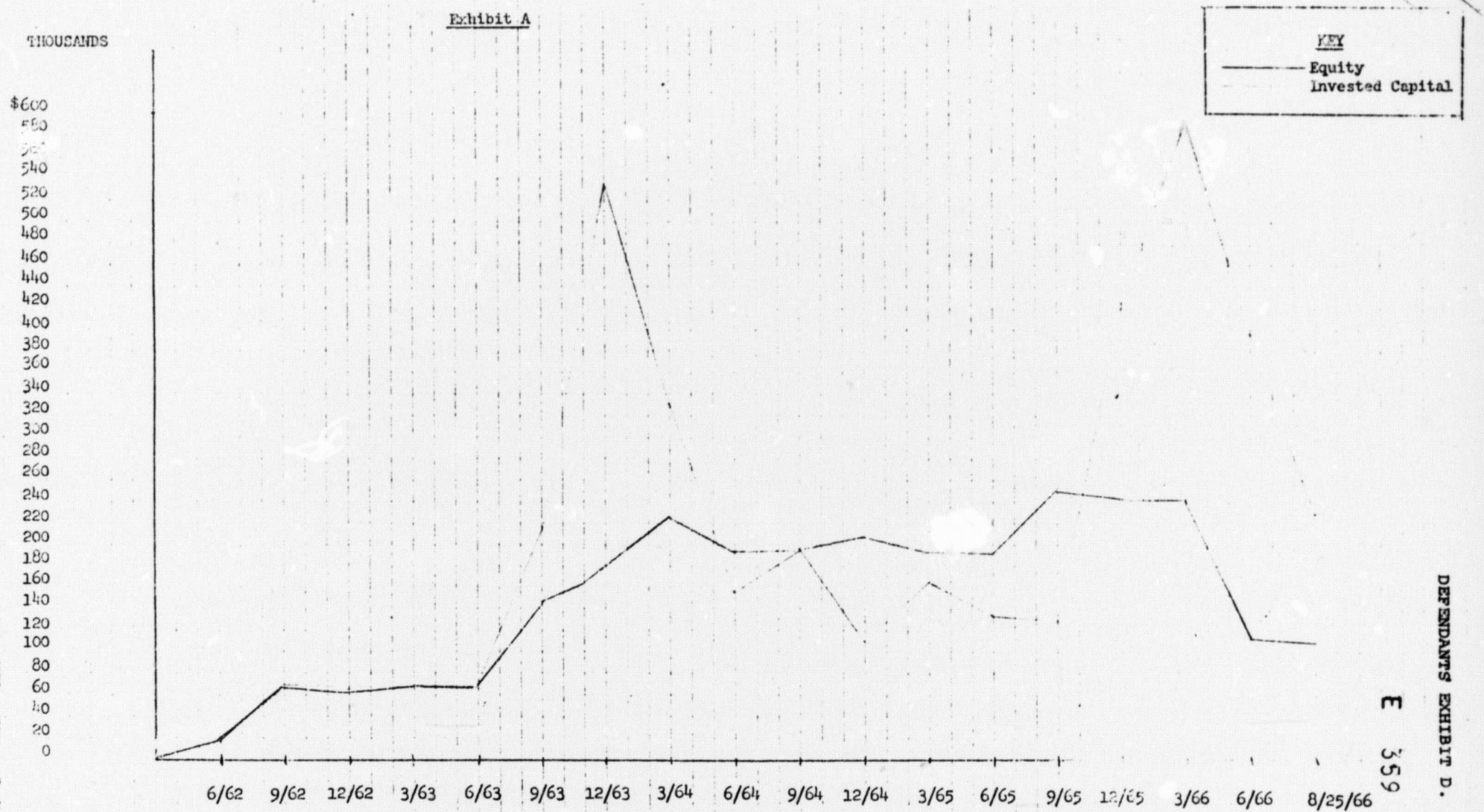


Exhibit A



DEFENDANTS EXHIBIT D.

E 356

DEFENDANTS' EXHIBIT D.

E 360

THE BUCKLEY ACCOUNT

RATIO OF CAPITAL TURNOVER TO EQUITY

FOR THE PERIODS INDICATED

Period Ending	Capital Turnover	Equity	Ratio
6/62	$ 36,671	$ 12,015	3.05
9/62	171,079	62,230	2.75
12/62	67,320	64,289	1.05
3/63	66,869	66,795	1.00
6/63	47,437	65,053	.73
9/63	396,878	217,174	1.83
12/63	538,134	536,023	1.00
3/64	731,093	333,142	2.19
6/64	858,359	158,643	5.41
9/64	994,177	190,847	5.21
12/64	314,041	110,267	2.85
3/65	175,349	165,136	1.06
6/65	38,081	135,754	.28
9/65	551,685	129,609	4.26
12/65	77,087	425,095	.18
3/66	43,473	594,073	.07
6/66	86,043	396,120	.21
8/25/66	28	229,143	-

DEFENDANTS' EXHIBIT E E 361

Newburger, Loeb & Co.

SOUND INVESTMENT SERVICE SINCE 1899

5 HANOVER SQUARE, NEW YORK, N.Y. 10004 (212) 944-6300

Branch Offices

4 East 28th Street at 5th Avenue
525 Seventh Avenue at 38th Street
57 West 57th Street at 6th Avenue
2091 Broadway at 72nd Street
931 Madison Avenue at 74th Street
2366 Broadway at 86th Street
920 Flatbush Avenue at Church Avenue (Brooklyn)

Members New York Stock Exchange · American Stock Exchange · Chicago Board of Trade · New York Cotton Exchange · Commodity Exchange · New York Cocoa Exchange

D. W. BUCKLEY

JUN 24 1969

8100

June 23, 1969

Mr. David W. Buckley
Lever Brothers Company
390 Park Avenue
New York, New York 10022

Dear Mr. Buckley:

Thank you very much for your cooperation in getting the Westec stock from Merrill Lynch. The initial of course is unimportant.

I greatly appreciate your efforts in straightening this out.

Sincerely yours,

Lew Loeb

LS:raf

DEFENDANTS' EXHIBIT E.

E 362

June 19, 1969

Mr. Leo Stern
Newburger, Loeb & Company
5 Hanover Square
New York, New York

Dear Mr. Stern:

Per our correspondence, enclosed please find the certificate for 2500 shares of Westec. Under separate cover I am forwarding a stock power.

Our friends at Merrill, Lynch have done it again in that the certificate is made out to David C. Buckley--I assume this is no problem.

Again, my apologies for the delay in straightening this matter out.

Sincerely,

David W. Buckley

DWB:mt
Enclosure

DEFENDANTS' EXHIBIT E.

E 363

Newburger, Loeb & Co.

SOUND INVESTMENT SERVICE SINCE 1899

5 HANOVER SQUARE, NEW YORK, N.Y. 10004 (212) 944-6300

Branch Offices

4 East 28th Street at 5th Avenue
525 Seventh Avenue at 38th Street
57 West 57th Street at 6th Avenue
2091 Broadway at 72nd Street
931 Madison Avenue at 74th Street
2366 Broadway at 86th Street
920 Flatbush Avenue at Church Avenue (Brooklyn)

Members New York Stock Exchange · American Stock Exchange · Chicago Board of Trade · New York Cotton Exchange · Commodity Exchange · New York Cocoa Exchange

June 5, 1969

Mr. David W. Buckley
Merchandising Manager
Household Products Division
Lever Brothers Company, Inc.
390 Park Avenue
New York, New York 10022

Dear Mr. Buckley:

Thank you very much for your letter of June 3rd.

We greatly appreciate your efforts to expedite the situation at Merrill Lynch and realize what a huge undertaking this is where Merrill Lynch is concerned.

Sincerely,

LS:raf

DEFENDANTS' EXHIBIT E.

E 364

June 3, 1969

Mr. Leo Stern
Newburger, Loeb & Company
5 Hanover Square
New York, New York

Dear Mr. Stern:

I can only apologize for the situation that exists on the agreed-to transfer of 2,500 shares of Westec from Merrill, Lynch to your office. I also admit to considerable frustration on this subject as:

1. Merrill, Lynch was initially requested on April 1st to effect this transfer,

2. Several follow-up phone calls revealed the fact that they evidently did not receive the validated Westec shares as quickly as anticipated, and

3. Somehow the transfer instructions were changed such that the transferee became me, not your office. I only discovered this on May 29th when I made another follow-up phone call to Merrill, Lynch's Newark office. At this point, they advised me that it would be quicker to leave the instructions as is and ship the stock to me rather than to "break them" and reissue the instructions again, transferring them to you. I agreed.

Unless this causes a problem for you, at this point it would seem best to let the instructions stand and for me to immediately forward the stock to you when I receive it. By copy of this letter, I have again urged Messrs. Price and Weizer to attempt to expedite this transfer, which is now many weeks old.

Sincerely,

David W. Buckley

DWB:mt
Copies to: Messrs. Price, Weizer - Merrill, Lynch, Pierce, Fenner & Smith
Mr. J. Ryan - Webster, Sheffield, Fleischmann, Hitchcock & Brookfield

DEFENDANTS' EXHIBIT E.

E 365

Newburger, Loeb & Co.

SOUND INVESTMENT SERVICE SINCE 1899

5 HANOVER SQUARE, NEW YORK, N.Y. 10004 (212) 944-6300

Branch Offices

4 East 28th Street at 5th Avenue
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931 Madison Avenue at 74th Street
2366 Broadway at 86th Street
920 Flatbush Avenue at Church Avenue (Brooklyn)

Members New York Stock Exchange · American Stock Exchange · Chicago Board of Trade · New York Cotton Exchange · Commodity Exchange · New York Cocoa Exchange

May 29, 1969

Mr. David W. Buckley
82 West River Road
Rumson, New Jersey

Dear Mr. Buckley:

When Mr. Ryan was in the office, he informed me that he was having you write a letter to Merrill Lynch, Pierce, Fenner & Smith instructing them to deliver 2,500 shares of Westec to this office. He was kind enough to enclose a copy of the instructions. Although this letter was dated April 1st, we have not received the stock. In fact, the Margin Department of Merrill Lynch informed our Cashier that their instructions were to deliver the stock to you. Will you please set them right and point out to them that they have had instructions for about two months.

Thank you for your cooperation.

Sincerely yours,

Lou Stein

LS:raf

DEFENDANTS' EXHIBIT E

Called D. Cuic in 1/25 -- ① transfer instructions are ② bill follows

E 366

April 1, 1969

Mr. Edward Weizer
Merrill, Lynch, Pierce,
Fenner & Smith
570 Broad Street
Newark, New Jersey

Dear Mr. Weizer:

As I understand it, the 2,500 shares of Westec currently being held in my account are not required to support the debit balance, in that you are required to carry the Westec shares as being worthless.

If this is the case, and if it will cause you no untoward difficulties, I would appreciate your transferring the shares to:

Newburger, Loeb & Company
5 Hanover Square
New York, New York
ATTN: Mr. Leo Stern

Sincerely,

David W. Buckley

DWB:mt

CC: Mr. L. Stern

P. S. - Mr. Stern

The above will confirm the discussion you had with my attorney, Mr. James Ryan--Webster, Sheffield, Fleischmann, Hitchcock & Brookfield.

DEFENDANTS' EXHIBIT E.

E 367

June 3, 1969

Mr. Leo Stern
Newburger, Loeb & Company
5 Hanover Square
New York, New York

Dear Mr. Stern:

I can only apologize for the situation that exists on the agreed-to transfer of 2,500 shares of Westec from Merrill, Lynch to your office. I also admit to considerable frustration on this subject as:

1. Merrill, Lynch was initially requested on April 1st to effect this transfer,

2. Several follow-up phone calls revealed the fact that they evidently did not receive the validated Westec shares as quickly as anticipated, and

3. Somehow the transfer instructions were changed such that the transferee became me, not your office. I only discovered this on May 29th when I made another follow-up phone call to Merrill, Lynch's Newark office. At this point, they advised me that it would be quicker to leave the instructions as is and ship the stock to me rather than to "break them" and reissue the instructions again, transferring them to you. I agreed.

Unless this causes a problem for you, at this point it would seem best to let the instructions stand and for me to immediately forward the stock to you when I receive it. By copy of this letter, I have again urged Messrs. Price and Weizer to attempt to expedite this transfer, which is now many weeks old.

Sincerely,

David W. Buckley

DWB:mt
Copies to: Messrs. Price, Weizer - Merrill, Lynch, Pierce, Fenner & Smith
Mr. J. Ryan - Webster, Sheffield, Fleischmann, Hitchcock & Brookfield

western union

(512)

Telegram

PA009 SA050S LLM162

LDX0142 YD PDB=SLDX NEW YORK NY NOV 11 509P EST=

DAVID AND MARY BUCKLEY=

23 DOGWOOD LANE RUMSEN NJER

=IN ACCORDANCE WITH THE AGREEMENT WHCIH YOU EXECUTED IN CONNECTION WITH THE OPENING OF YOUR MARGIN ACCOUNTS WITH THIS FIRM WE ARE COMMENCING TODAY TO LIQUIDATE YOUR HOLDINGS IN TECH-SYM CORPORATION.=

NEWBURGER LOEB AND CO RICHARD N MILES.=

WU 1201 (R 5-69)

DEFENDANTS' EXHIBIT F.

E 368

DEFENDANTS' EXHIBIT G.

E 369

COHN, IVERS & COMPANY, INC.

122 EAST 42ND STREET
NEW YORK 17, N. Y.
YUKON 6-0630

1

TRADE DATE 6/27/63 M.P.

MEMBERS PUT & CALL BROKERS & DEALERS ASSOCIATION, INC.

DAVID BUCKLEY
23 DOGWOOD LANE
RUMSON,N.J.

FOR A/C

C/M

WE HAVE REPURCHASED FROM YOU THE FOLLOWING STOCK OPTION:

CALL ON 300 SHARES OF TECHNICAL OPERATIONS,INC.(TO)

@ 19-7/8 EXPIRING JULY 1,1963 CONTRACT NO. CB-319,20,21

PRICE	N.Y. TAX	U.S. TAX	BROKERAGE CREDIT	TOTAL PER 100 SHARES	TOTAL PRICE
					3212.04

STOCK BOUGHT @ 19-7/8
STOCK SOLD @ 31-1/4

E 370

DEFENDANTS' EXHIBIT G.

Newburger, Loeb & Co.

5 Hanover Square • New York 5, N. Y. • WHitehall 4-6300

MEMBERS OF NEW YORK STOCK EXCHANGE AND OTHER EXCHANGES

BRANCHES

4 East 28th St. at 5th Ave. • 2091 Broadway at 72nd St.
525 Seventh Ave. at 38th St. • 931 Madison Ave. at 74th St.
57 West 57th St. at 6th Ave. • 2366 Broadway at 86th St.
920 Flatbush Avenue at Church Avenue (Brooklyn)

Date 12-7/62

We have this day **RECEIVED** for the account of

FROM WHOM RECEIVED	QUANTITY	DESCRIPTION	CERTIFICATE NUMBERS	AMOUNT CHARGED
CHI IVES [illegible] CO INC	CALLS ON [illegible] 7/1/62	Bought 12/2/62	1 51.20 / 0 / 0 51.20

FORM 504

DEFENDANT'S
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
H

DEFENDANTS' EXHIBIT H.

E 371

COHN, IVERS & COMPANY, INC. 1

122 EAST 42ND STREET
NEW YORK 17, N. Y.
YUKON 6-0630

TRADE DATE 7/8/63 M.P.

MEMBERS PUT & CALL BROKERS & DEALERS ASSOCIATION, INC.

MR.DAVID BUCKLEY
23 DOGWOOD LANE
RUMSON,N.J.

FOR A/C

C/M

WE HAVE REPURCHASED FROM YOU THE FOLLOWING STOCK OPTION:

CALLS ON 400 SHARES OF TECHNICAL OPERATIONS,INC.(TO)

@ 19-1/2 EXPIRING JULY CONTRACT NO. 8,1963 C--

PRICE	N.Y. TAX	U.S. TAX	BROKERAGE CREDIT	TOTAL PER 100 SHARES	TOTAL PRICE
					4334.76

STOCK BOUGHT @ 19-1/2
STOCK SOLD @ 31

DEFENDANTS' EXHIBIT H. E 372

Newburger, Loeb & Co.

5 Hanover Square • New York 5, N. Y. • WHitehall 4-6300

MEMBERS OF NEW YORK STOCK EXCHANGE AND OTHER EXCHANGES

BRANCHES

4 East 28th St. at 5th Ave. • 2091 Broadway at 72nd
525 Seventh Ave. at 38th St. • 931 Madison Ave. at 74th
57 West 57th St. at 6th Ave. • 2366 Broadway at 86th
920 Flatbush Avenue at Church Avenue (Brooklyn)

We have this day **RECEIVED** for the account of DAVID W BUCKLEY 80D

Date 1/5/63

FROM WHOM RECEIVED	QUANTITY	DESCRIPTION	CERTIFICATE NUMBERS	AMOUNT CHA
C HIN IVERS & CO INC	CALLS	ON 400 TECHNICAL OPERATI NS INC @ $19.50 EXPIRES JULY 8 1963	Bought 12/26/62	$1465.04

FORM 504

7/5/63

DAVID W BUCKLEY 80 D A/C

GROSS & CO
ATT SERENA
STUTLAND

CALL ON 400 TECHNICAL OPERATIONS INC
@ $19.50 EXPIRES 7/8/63

DEFENDANTS' EXHIBIT H.

E 373

JUL 9 '63 K COHN IVERS & CO INC CHEM BK NY TR 3212 04 DAVID BUCKLEY 80D

6/28/63

DAVID BUCKLEY 80 D A/C

CHARLES JORDON CALL ON 300 TECHNICAL OPERATIONS INC
@ $19.875 EXPIRES 7/1/63

E 373 A

Sol. Berkowitz Papers used by Marcus,
Defendants' Trial Exhibit D

DEPARTMENT

DEFENDANTS' EXHIBIT M.

GENERAL COUNSEL INFORMATION MEMORANDUM

FEBRUARY 22, 1972

E 374

OFFICERS:
OFFICE MANAGERS:
DEPARTMENT MANAGERS:
ACCOUNT EXECUTIVES:
HOLDERS OF OPERATIONS MANUAL:

TOO MANY COMMISSIONS

Churning is easier to define than it is to identify. We can define it as "excessive trading in an account which is induced by a broker for the purpose of generating commissions." As you can see, much of that definition is subject to interpretation. What, for example, is excessive? How do you determine when trading is induced? How do you determine the motivation or intent of the broker? To attempt to measure these matters, the SEC devised certain guidelines which it used in many of the administrative proceedings it brought against brokers on churning charges. Although in the past relatively few cases of churning reached the courts, there have been an interesting number within the past two years, and the court decisions plainly rely heavily upon these unofficial SEC guidelines. The result of this has been to hold brokers to higher standards of accountability than had been the case a few years ago. Let us examine these guidelines and see what they can tell us.

1) Control by account executive - in order to sustain a charge of churning, the customer must be able to demonstrate that the account was "controlled" by his account executive. If the account executive exercises discretion either formally, or with the tacit acquiescence of the customer, he has control over the account. An account executive also can exercise control without exercising discretion. This occurs where the customer relies to such an extent upon the account executive's recommendations that he rubber stamps suggestions which are offered to him. The SEC put it this way: "It has long been established that a broker-dealer or salesman who uses his relationship of trust and confidence to a customer to cause an excessive number of transactions in a customer's account commits fraud upon the customer, whether or not the account is a discretionary one."

2) Relationship between commissions and profits - the second guideline is the establishment of a high ratio of commissions as compared to the customer's profits. In other words, who benefitted from the activity: the broker or the customer?

3) Turnover Rate - the third guideline is a mathematical formula called the rate of turnover. This is calculated by taking a total of the dollar value of purchases during the period under review--whether it is three months or three years--and dividing it by the average equity in the account for the same period. The figure carried out to two decimal places is the "turnover rate." There is no "acceptable" turnover rate for obvious reasons, but the courts have considered a rate of turnover of slightly over twice a year to be excessive. Naturally, the turnover rate would be greater for an account with a small amount of money invested.

It is important to note that in any case brought by the SEC, all three of these elements were present. It was not simply a case of establishing any one of them.

Let us turn now to some of the more common defenses which brokers have attempted to raise against a charge of churning. One of these is the fact that a customer may have made profits during the course of the activity. Both the SEC and the courts have dismissed this. In one recent case a U.S. District Court stated: "The fact that an account may have showed a net profit is not an absolute defense to a charge of churning." Several recent suits have been based upon the theory that if the account had been left undisturbed instead of trading, the good-quality securities which the accounts had at the inception of the activity would have increased substantially in price. The courts have not thus far been sympathetic to this hindsight type of reasoning and so they have not required brokers to reimburse their customers on this basis. However, the courts have also taken the position that a customer's inability to recover these alleged damages does not absolve the broker of responsibility for churning an account. The broker may be required to pay damages based upon a different type of yardstick. Often these damages have consisted of a refund of commissions and interest on debit balances charged during the period.

Another possible defense is the sophistication, wealth and desire of the customers to trade. The SEC's notion of what constitutes a sophisticated customer differs markedly from the ideas of some brokers. In some cases, individuals who were considered unsophisticated by the Commission were

DEFENDANTS' EXHIBIT M.

E 376

persons of considerable education and stature within their own professions. These included a trade publication editor, a school teacher, an engineer and a comptroller. The SEC's theory was that knowledge or expertise in their own vocations did not necessarily make them knowledgeable where securities were concerned. The customer's wealth also is irrelevant to whether or not the account has been churned. The SEC has said unequivocally "that the customer may be of substantial means is no defense of a charge of excessive trading." Finally, the customer's own desire to trade must be considered against his knowledge of the risks involved in trading. For an unsophisticated customer--using the SEC's definition of that term--it may be that short-term trading can never be justified.

What can we say then about our own desire to serve our customers' interests and at the same time avoid regulatory fallout? The conscientious use of our monthly activity reviews and the Code 8s is our first line of defense against the mishandling of an account. Several aspects of that review take a particular significance in light of the foregoing discussion.

1) Control over the account, as we have seen, is an essential ingredient in charge of churning. We can see then that the question on the first page of the Code 8, relating to where the customer gets his ideas, is not a frivolous one. This question ought to be taken seriously and the answers to it must be truthful.

2) The background information about a customer can give us an indication of his sophistication. The information regarding his other accounts, his experience, occupation, objectives, and worth are all clues, but probably the only accurate means of making a judgment are through a personal contact by the manager with any account which is particularly active. Again, we have to keep in mind that trading is not for everybody.

3) The turnover rate and profitability of an account is an essential clue to any possible complaints alleging churning. Although profits in themselves, as we have seen, are no defense, it is rare that a customer who is making money will complain. The time to slow down an overactive customer is while he is making money and not after his capital has been wiped out. An integral part of the monthly activity review is a profit and loss study and analysis of the turnover rate. Another useful guide is a comparison of commissions with the amount of capital invested. If commissions over a period of several months are equal to a significant portion of the customer's capital, the account ought to be examined carefully. No review of an active account is complete without an examination of the statement. Such signal flags

DEFENDANTS' EXHIBIT M.

E 377

as day trading, frequent in-and-out trading, late payments, and short-term losses will be obvious from even a glance at a statement.

Churning may not be easy to describe, but it can and should be prevented.

HOWARD T. SPROW

DEFENDANTS' EXHIBIT N.

Depts Exh 20 for cc 12/22/71

DEFENDANT'S EXHIBIT
U. S. Dist. Court
S. D. of N. Y.
Def. Ex N

CHARLES H. GROSS
32 The Intervale
Roslyn Estates, New York

E 378

November 23, 1970

Newburger, Loeb & Co.
5 Hanover Square
New York, New York

Gentlemen:

I have heretofore made demand upon you in accordance with the Restated Articles of Limited Partnership of Newburger, Loeb & Co., as amended, for the payment to me of the following:

(a) 15% of the amount of committed capital standing in my name in accordance with Paragraph 8.3 of the partnership agreement;

(b) All of the additional capital standing in my name in accordance with Paragraph 3.3 of the partnership agreement; and

(c) Interest on capital standing in my name from July 1, 1970 in accordance with Paragraph 3.4 of the partnership agreement.

In the event of your failure to make payment of the foregoing amounts promptly upon receipt of this letter, I shall take all such action and exercise all such remedies as may be available to me pursuant to the limited partnership agreement, or otherwise.

Very truly yours,

Charles H. Gross

CHARLES H. GROSS

DEFENDANTS' EXHIBIT P.

DEFENDANT'S
EXHIBIT
U. S. Dist. Court
S. D. N. Y.

Ex P filed

NEWBURGER, LOEB & CO., INC.
5 Hanover Square
New York, New York

E 379

February 11, 1971

Messrs. Robert Steefel,
Arthur Richenthal and
Daniel Eisenberg
c/o Robert Steefel, Esq.
Stroock & Stroock & Lavan
61 Broadway
New York, New York

Gentlemen:

This letter is addressed to you as representatives of the Limited Partners of Newburger, Loeb & Co., and is to confirm our agreement, that, at any time subsequent to the closing of the transactions contemplated by the Agreement dated December 31, 1970, between us and Newburger, Loeb & Co., we, without the prior approval of any two of you, shall not enter into any settlement of the claims we have against Charles Gross which involves either the payment of cash or the issuance of securities or obligations which are in any way senior in maturity or lien to the Subordinated Convertible Notes and the Series A Preferred Stock received upon the closing under the aforesaid agreement by the Limited Partners.

Very truly yours,

NEWBURGER, LOEB & CO., INC.

By: Lawrence J. Bernstein

DEFENDANTS' EXHIBIT S.

Kayne "White Paper".

DEFENDANTS' EXHIBIT 5.

REMARKS OF FRED KAYNE TO
EXECUTIVE COMMITTEE MEETING
OF
AUGUST 24, 1970

E 380

I. INTRODUCTION

I have been asked by Bob Newburger to act as Chairman of this Meeting. I have asked you to join us here today so that we may discuss several areas of interest and to do so on a basis that completely records, in a formal and legal manner, the Minutes of our Executive Committee Meeting. We have retained Finley, Kumble, Underberg, Persky & Roth as special counsel for Newburger, Loeb & Co., and Mr. Robert S. Persky of that firm is present with us. We will thus be advised as to the legal propriety of some of the steps that we contemplate taking. I also feel it advisable, since we are talking about the economic future of the Firm and, indeed, of the partners themselves, that we employ a stenographer to record the actual discussions and the vote on various subjects. I further feel that it is desirable to

E 381

have the Executive Committee Meeting outside of our offices so that we are free from interruptions and the pressures of daily business.

I have prepared an agenda and will now distribute it to you. This agenda is, of course, not definitive and any of you may add other items.

I think before we continue any further, the secretary should note who is present and that Charles Sloane was good enough to fly in from California for this Meeting. All our present members of the Executive Committee and all alternate members are also present. It should also be noted that all the members of the previous Executive Committee, as designated in our partnership agreement, are present, as well.

II. THE PRESENT EXECUTIVE COMMITTEE AND ITS RELATIONSHIP TO THE OLD EXECUTIVE COMMITTEE

I think that it is important to begin at this time with a discussion of the relationship of the new Executive Committee and its responsibilities for guiding the Firm from the day of its inception as relative to the old Executive Committee. I came to New York to assume my new job as Assistant Managing Partner on August 3, 1970. The new Executive Committee had been formed the previous week, but had not yet met. On August 11, 1970, the new Executive Committee had its first meeting and at that time Charles Gross resigned as Managing Partner and I was selected as the new Managing Partner of the Firm by the new Executive Committee. On August 13, 1970, two days later, I appeared before the New York Stock Exchange and introduced myself, discussed Newburger, Loeb's problems, got a feeling of their views,

told them that I was undertaking a quick analysis of Newburger, Loeb and trying to get a handle on the various operations and difficulties of the Firm. I told them I would be back to them in the near future with a complete report. I subsequently met with representatives of the Exchange, together with some of my partners, last Friday and gave them a partial report, including a letter regarding our future course of business. I have copies of that letter and will distribute them at the end of my remarks.

As most of you who were present at the first Executive Committee Meeting on Tuesday, August 11, 1970 will recall, I made a special point of discussing and raising questions as to my responsibilities as Managing Partner in relation to problems that were not created by me or by various members of this current Executive Committee. It is this whole area that I wish to discuss

at this point. I have been advised and have told many of you individually that I had been advised to resign as a partner of Newburger, Loeb.. I have in the past objected and still do strenuously object to many of the actions and courses that our partnership had taken. But I feel that resigning is an impractical course at this time because the partnership is very vulnerable to tremendous financial reverses and losses. I feel that only by my direction and involvement can I assure myself personally and those partners that find themselves in a similar position of moving forward and working out the various problems.

Therefore, it is with great emphasis that I wish to outline that the new Executive Committee and myself constitute a fresh management team, which will take an objective view of the prior management's decisions which have involved us in various

difficulties. I want to make it clear that by staying and fighting through these problems as Managing Partner and member of the Executive Committee, I, and the other partners similarly situated, do not in any shape or form waive any of our rights or remedies against any of the individual partners or against the partnership that we may have under the law, nor do we condone any of the prior acts or omissions of the partnership or the partners.

I became a partner of the Firm on March 1, 1970, and I signed the partnership agreement without questioning the representations made to me by men whom I respected and deemed to be honourable and truthful.

As I made clear to everyone present at the Executive Committee Meeting of August 11, 1970, I wish to be able to proceed ahead with a clear and open mind and to proceed in a manner that

reflects the best business judgments that I can bring to bear, together with the judgments of the others on the new Executive Committee.

III: RISHER, MUH & CO.

At this point, I would like to review our retention of Risher, Muh & Co.

Prior to my coming to New York on August 3rd, I developed an approach to gathering information quickly and trying to get facts in the shortest period of time so that I could begin evaluating a course of action. In this regard, I wrote most everyone in supervisory positions at Newburger, Loeb asking for specific information. I also retained the firm of Risher, Muh & Co. as independent management consultants on behalf of Newburger, Loeb to come into Newburger, Loeb and assist in the information-gathering and verification process. Both Paul Risher and Bob Muh

were management consultants with McKinsey & Co., a leading national consulting firm, and they consented to spend their full-time as Newburger, Loeb to give us their assistance and evaluations. Paul Risher was immediately assigned to the area of examining the profit and loss picture, and evaluating our clearing operation. Robert Muh has devoted most of his time to the area of leases and obligations, liabilities and space requirements inherent in this area. Today, I have received a 20-page report from them which, although of a preliminary nature, outlines many of their findings and suggests various courses of action, some of which I have already instituted.

It should also be noted at this time that I have requested Peat, Marwick, Mitchell & Co., who did our last audit, to do a verification of our profit and loss statements as of July 31st

and to verify our findings regarding the partnership capital accounts. I will discuss these capital accounts in greater length later during this Meeting. Peat, Marwick has assured me that they will have the verifications by the end of this week.

IV. DEFICITS IN GENERAL PARTNERS' ACCOUNTS

It appears from my preliminary investigation that our capital of the general partners is substantially below that represented to Charles Sloane and myself prior to my coming to New York, on August 3, 1970. Indeed, the amounts set forth in the partnership agreement, which we all executed were not accurate at the time of execution. As late as June, Charles Sloane and I were both told, verbally, by Charles Gross, Jim Settel and Ned Frank that to their best knowledge, capital of the general partners was in excess of two million dollars. I have found that the

actual capital of the general partners as of the close of business of July 31st had been reduced to approximately $700,000, and of this $700,000, approximately $300,000 is invested in our subsidiary, New-Loeb Sports, Inc. Peat, Marwick, Mitchell & Co., have been requested to validate this number, and to bring current the partnership's capital account on an actual net worth basis. It appears, on my preliminary examination, that after the back office loss taken this year of approximately 2.2 million dollars, plus the 1.2 million dollars operating loss through July 31, 1970, plus the misstatement of capital, as stated in the March 1, 1970 agreement, that most of our general partners are in large deficit positions relative to the partnership at this time. Thus, in effect, partners who apparently own the controlling interest or large percentages of our partnership actually have no capital in the Firm and, further, owe the partnership significant sums of

E 390

of money.

Many of the basic problems which have arisen this year stem from this lack of capital and the delusion that our Firm was richer than, in fact, it was. The misstatement of the partnership capital in the March 1st agreement has, I feel, caused many partners to be complacent and possibly reckless in their planning and may, very well, have caused irreparable damage to the partnership and to their own personal lives.

To alleviate this situation, it is our special Counsel's proposal that the partnership of Newburger, Loeb & Co. receive, from all partners who are currently in deficit or who appear that they are going to shortly be in deficit, assignments of all tax refunds due and to become due them from the Federal, State and City governments. As Bob Newburger, Bob Stern and Ned Frank can

attest, the Department of Member Firms Committee of the New York Stock Exchange that we met with on Friday, August 21st, chaired by Mr. Robert Bishop, raised the question of deficits and wanted to make sure that these sums were irrevocably assigned to the partnership. Therefore, I have had Mr. Robert S. Persky, our special Counsel, prepare assignments that are general in dollar amount but specific in nature for each of the affected partners to execute, and I will distribute copies of these to everyone.

I am prepared, later in this Meeting, to name those partners who appear to be in deficit or close to it.

To demonstrate the backing of those present in this room, I suggest that those required to do so, immediately execute their assignments and undertake to approach the remaining partners to obtain their assignments, as well. When I distribute

the assignments, we can discuss who will approach the partners not present today.

V. BASKETBALL TEAM

Unfortunately, I have not had sufficient time to examine Newburger, Loeb's relationship to its investment in the Buffalo Braves. This is due to the press of other Newburger, Loeb business that I have had to attend to. As you all know, our partner, Jim Settel, was designated by me as partner-in-charge of this investment and was instructed to use his full time, if necessary, to prepare a public offering for this team. This was discussed at our last Executive Committee Meeting, and I believe is common knowledge among our partners. The area I have not been able to examine yet is the viability of our investment, the cash flow position of the team and the entire circumstances regarding the commitments of Newburger, Loeb to the basketball

team. As Jim Settel will tell you, he has been given authority to make operating decisions and to move swiftly to accomplish the public underwriting. It is a known fact to the members of this Executive Committee that 1.3 million dollars has been borrowed from various banks by the basketball entity, and that these loans are guaranteed by the signatures of many of our general partners. I have been told by several of our general partners that the law firm of Golenbach & Bärell has guided the entire relationship between Newburger, Loeb and the basketball team and these loans, and have advised our partnership that everything is in order. After I am able to complete my work in other areas, I will be able to devote more time to acquainting myself with our entire relationship with the basketball team.

VI. LACK OF SUPERVISION

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It quickly became apparent, after I began working in New York, that Newburger, Loeb was very remiss in not having developed a series of supervisory checks and balances designed to protect the partnership from the unilateral actions of partners and employees. Notwithstanding that not long ago the partnership had a bitter lesson and incurred a $300,000 loss due to a problem with a customer account, Newburger, Loeb has failed to institute proper controls and to scrutinize transactions and operations. We suffered losses early this year through manipulation in our margin department and also incurred a significant $200,000 loss through entering of orders by one of our former employees, Walt Tepper. I am perfectly cognizant that to be in the securities business is to run the peril of such risks, but these risks

can be minimized by having a line of communication and a set of rules to follow. For example, our Board Room at 5 Hanover Square and our brokers on the 24th floor do not have a professional manager who supervises their operations. Thus, I found we have approximately thirty to thirty-five men operating as they wish without professional full-time supervision. Similar situations exist at our other New York offices.

When I first arrived in New York, I talked with Mr. Richard Miles, who by title is our Director of Compliance, and he did not really know to whom he reported, or who was actually his boss.

Insurance claims and outstanding unsecured debits against customer accounts were also handled loosely with no central control.

Incidentally, it appears that our unsecured debits, other than the Buckley matter and the Tepper matter, run to approximately $100,000, which I consider a high figure. As you know from my recent memorandum, I have appointed Ned Frank as partner-in-charge of compliance and legal affairs. Ned, who is now Dick Miles' supervisor, has established a clear line of authority and responsibility. We are currently interviewing prospects for a professional manager for our 5 Hanover Square office and also have turned over the complete list of unsecured debits to an attorney for collection.

VII. LACK OF FINANCIAL CONTROLS

The lack of financial controls first came to my attention when Charles Sloane and I attended, as invited guests, an Executive Committee Meeting in May. We were appalled and so

stated. As far as we could see, there were no budgets, or cash flow or revenue projections. The reporting systems appeared slow, and the degree of technical competence in our whole accounting area appeared weak. Our initial impression has been substantiated in the several weeks that I have been in New York.

There appeared to be no set criteria established by the previous Executive Committee or management to say who could or could not commit money in the stock market for Newburger, Loeb, who could or could not sign leases and obligate the partnership, who could or could not spend the Firm's money on refurbishing offices, and there was very little control over expense accounts or travel expenses, etc.

Charles Gross apparently felt that he could make the Firm some money by making a trade in the market in City Investing.

This happened this Spring and the market went against him, and Newburger, Loeb suffered a significant loss.

My objection is not that he guessed the market wrong, but how, when Newburger, Loeb in the last seven months in a declining market lost $1,300,000, does the managing partner and our Executive Committee go along with allowing the managing partner to trade stocks for the Firm's account. I think it should also be noted in line with this, that Newburger, Loeb has an arrangement with Rosen & Co. whereby we have committed one million dollars to them to trade for us. Has not the Executive Committee usurped a function previously delegated to Rosen & Co?

The whole area of business and travel expenses for partners and employees has also been loosely supervised by the former Executive Committee. I have not yet examined any specific

arrangements with regard to leased automobiles, memberships to clubs or similar expenses. I would hope that each partner present today makes a quick and early appraisal of his present position, and terminates any non-essential expenses for which he expects to be paid by the partnership.

In the near future, I would hope to get out a complete memo detailing controls and defining guidelines over this area.

I spoke with various department heads, such as Pete Titus in our municipal bond department. Pete has had no idea or specific direction from our Executive Committee as to the amount of capital he is allowed to work with, the maximum loss he is allowed to take, or any other peramiters which he must stay within. After talking to Dick Matson in our syndicate department, I

found that he has received orders to accumulate and position stocks we make markets in from various partners who are accumulating a position for a potential buyer. In several instances, that potential buyer has disappeared and Newburger, Loeb has ended up with a loss.

It is my opinion that the Executive Committee was derelict in failing to establish guidelines and supervisory controls over partners and department heads.

VIII. ESTABLISHMENT OF A CALIFORNIA OFFICE

When Charles Sloane and I were in discussion with Gross, Settel and Bob Newburger in the fall of 1969 regarding opening of a California office for Newburger, Loeb, we were assured by these representatives of Newburger, Loeb that the Firm's capital position was strong and that they were embarking

upon a sound expansion program. Charles Sloane and I took them and their representations at their word. In October, Charles Sloane resigned his job at McDonnell & Co., to go to work for Newburger, Loeb and began preparing plans for a new office. In January, I resigned my position with Shearson, Hammill and joined Newburger, Loeb.

The Executive Committee must have been aware that we were going to rely on their representations and that we were going to enter our community of friends and business acquaintances and represent Newburger, Loeb as it had been represented to us -- as a financially sound Firm. It turns out, as I found out only recentl that the New York Stock Exchange Department of Member Firms was against Newburger, Loeb opening a California office and that, in fact, we were on restriction from the Department of Member Firms.

Bob Therese told me recently that he and Charles Gross met with Mr. Bishop at the New York Stock Exchange prior to the opening of the California office and they told Mr. Bishop and his Committee that if Newburger, Loeb could not open the California office, Newburger, Loeb would be in dire straits. At this time, I am still not aware of the basis for that representation. Thus, it is important to note, at this point, that not only were false representations made to us, but that a concerted effort was made to convince the New York Stock Exchange to allow Newburger, Loeb to open its facility in California. It is inconceivable to me how the Executive Committee expected to see any positive cash flow from California during 1970 and thus, it is clear that Newburger, Loeb was only acquiring additional financial commitments and exposure.

IX. LEWIS BRACKER

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I think it is important to discuss the arrangement with Lewis Bracker today since it was a costly arrangement for Newburger, Loeb.

Lewis Bracker was invited into our Firm as of March 1st as a 1% partner. He was given a special arrangement, negotiated by Charles Gross, our former Managing Partner, which is not reflected in the partnership agreement. Apparently, our association with him began in January. Aside from the now obvious fact that this was a poor business arrangement, it appears that Newburger, Loeb spent in excess of $80,000 during this relationship which ended July 31, 1970. Although Newburger, Loeb signed and delivered documents to Lewis Bracker obligating Newburger, Loeb to rent part of his building, we never received a signed document

reflecting the relationship between the Firm and Lewis Bracker. Copies of the unsigned documents are available and this arrangement is apparently a mysterious one, in that very few people here can answer any questions regarding financial controls and expenditures. It appears that, despite the unsigned document with Bracker which stipulates that our rent is to begin on January 1st, we had even paid for his December 1969 rent. We also paid for approximately $10,000 worth of entertainment expenses by Lewis Bracker, although during the seven months we received virtually no income from his corporate finance business. I think it must be further pointed out, at this time, that this relationship of Newburger, Loeb with Lewis Bracker was made over the objections of Charles Sloane and myself who were the two California partners and who felt, from the very beginning, that this was an ill-founded relationship. At no time were the two of us privy to

negotiations or were we consulted regarding the agreements. At the present time, it is my understanding that Lewis Bracker's attorneys have called Newburger, Loeb and asked for a return of his partnership capital. I expect, in the next two to three weeks, to complete a full study of this whole arrangement and, after discussing it with Counsel, I will return to the Executive Committee with a recommendation as to how to proceed.

X. ONE NEW YORK PLAZA AND OTHER PROPERTIES

As you all know, we have a lease obligation for 20 years at approximately $300,000 a year on 20,000 sq. ft. at One New York Plaza. This obligation is due to become current sometime towards the end of this year. In addition, we have spent a considerable but untotaled sum of money on the preparation of plans and specifications. Although Newburger, Loeb apparently

recognized early in January or February of this year that this space was a luxury that we could ill afford, no positive action was instituted by the prior Executive Committee to move out of this commitment. Several meetings apparently were held with Golenboch & Barell in early spring to discuss the matter, and it was decided that the best course to take was to do nothing in the hope that the landlord might not complete the space by a December deadline or that the problem would somehow disappear. After meetings with three different law firms, including Golenboch & Barell, it becomes clear that a major mistake was made and that Newburger, Loeb could have terminated the lease by giving notice in early April pursuant to the provisions of the lease. It appears that three or four of our partners were involved in the pursuit of this matter and it is clear that some confusion was

created here, coupled with weak legal advice from Golenboch & Barell. Unfortunately, Minutes of prior Executive Committee Meetings do not set forth specifics as to legal advice given or decisions made.

I have just returned with Ned Frank from a meeting with the principals that own One New York Plaza and it now appears that

What is appalling in retrospect is that somehow our partnership and our Executive Committee entered into a $6 million dollar obligation with little or no real plan as to how to utilize this space, or how to get out of our existing lease obligations

in the downtown area or how to meet the 300,000 annual expense in a declining market. It appears that this was a decision taken without any consideration of the risk side of the decision. I feel because of the magnitude of the potential exposure to each partner that when I signed the partnership agreement on March 1, and was facing a $6 million dollar obligation, it was the duty of the old partners to specifically identify this obligation in their partnership agreement or to make the new partners aware of it in detail before they signed the partnership agreement.

Newburger, Loeb leases, at the current time, in excess of 30,000 sq. ft. of floor space in downtown New York. In the past twelve months, my preliminary examination shows that Newburger, Loeb spent in excess of $75,000 to renovate this space. Approximately $30,000 was spent to renovate the floor space at

40 Exchange Place, which is now vacant and which our preliminary estimates from real estate agents show to be rentable at only sixty percent of our lease obligation. Newburger, Loeb spent in excess of $12,000 to build five offices this spring for our research department on the 12th floor at 5 Hanover Square at the same time that we were suffering substantial operating losses. The inconsistencies here are glaring and the Minutes of the Executive Committee Meetings do not reflect a thorough discussion of this matter.

It should also be noted that we had a clause in our lease for the 24th floor (which has an annual rental of $17,000) which provided that we could have terminated that lease on or before July 1, 1970. No notice was given; no discussion was ever had of this fact before the Executive Committee and, consequently,

Newburger, Loeb finds itself obligated to an additional five or six years of lease obligations. I think a question that the general partners could very well ask the Executive Committee is how, in view of the fact that we had gone ahead and obligated ourselves at One New York Plaza, could we have spent any money whatsoever.

XI. LACK OF FULL DISCLOSURE

Shortly after arriving in New York, I was approached by a number of our general partners who were not members of the Executive Committee. They asked me questions as to capital, as to the operating results of the Firm and as to other matters that pertain vitally to their financial interests in the Firm. It is apparent from reading the Minutes of our Executive Committee Meetings and from the questions posed to me by our other general

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partners, that the actual financial condition of Newburger, Loeb has not been fully disclosed to them. Full disclosure is required by our partnership agreement and the partners individually have the right, at any time, to examine the books of the partnership. Therefore, later in this Meeting, I will propose a meeting of our general partners to make this disclosure. I believe that this lack of full disclosure permeates our relationship with the New York Stock Exchange and other regulatory agencies.

I plan to institute proper disclosure of our activities to our business associates, partners and to regulatory agencies.

DEFENDANTS' EXHIBIT U.

Partnership Agreement of Newburger, Loeb.

DEFENDANT'S
EXHIBIT
U. S. Dist. Court
S. D. of N. Y.
Df Ex. U

DEFENDANTS' EXHIBIT U.

RESTATED ARTICLES OF LIMITED PARTNERSHIP

OF

NEWBURGER, LOEB & CO. AS AMENDED

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PREAMBLE

The parties hereto (except those whose names are marked with an asterisk in paragraph 1.2 below) have heretofore conducted a general brokerage business in securities and commodities as a limited partnership under the firm name of Newburger, Loeb & Co. pursuant to a certain agreement entitled "Articles of Limited Partnership of Newburger, Loeb & Co." dated as of January 1, 1969, as the same has been amended by instruments dated January 24, 1969 and February 1, 1969. Inasmuch as the parties wish to admit as new partners the persons whose names are marked with an asterisk in paragraph 1.2 below and to make further changes in the Articles of Limited Partnership of Newburger, Loeb & Co. as heretofore amended, and to set forth the agreements of the parties with respect to the Limited Partnership of Newburger, Loeb & Co. as among all of the undersigned, the parties in consideration of the premises and the mutual promises hereinafter contained do hereby agree that, as of February 26, 1970, the Articles of Limited

Partnership of Newburger, Loeb & Co. shall be as follows:

1. FORMATION

1.1 The parties hereby form a limited partnership pursuant to Article VIII of the New York Partnership Law. The name of the firm is Newburger, Loeb & Co. and its principal place of business shall be in the Borough of Manhattan, City and State of New York, but the firm may transact business at such other places within or without the State of New York as the General Partners may from time to time determine.

1.2 The partners are:

GENERAL PARTNERS:

LEO STERN
ROBERT L. NEWBURGER
ANDREW M. NEWBURGER
ROBERT L. STERN
CHARLES H. GROSS
GEORGE F. CONNIFF
EDWARD R. HOLT
HAROLD J. RICHARDS
ADOLPHUS ROGGENBURG
JULIUS S. SCHNALL
WILLIAM A. McGOVERN
NED D. FRANK
SANFORD ROGGENBURG
JOHN F. SETTEL
RICHARD D. STERN
* LEWIS A. BRACKER
* FRED KAYNE
* EDMUND M. RUBIN
* JACOB SCHAFER
* JOSEPH L. SEARLES, III
* CHARLES SLOANE
* ROBERT F. THIENES

LIMITED PARTNERS:

ELLA L. NEWBURGER)
ARTHUR H. NEWBURGER)
ROBERT L. NEWBURGER) As Trustees under the
DONALD L. NEWBORG) Last Will and Testament of Lester M. Newburger, Deceased

MAY U. NEWBURGER)
GEORGE B. LEVY) As Executors and Trustees under the Last Will and Testament of Morris Newburger, Deceased

GERALD N. FRANK
WILLARD S. IRLE
JEANNE G. DONOGHUE
MABEL BLEICH
JACK WACHS
SAUL A. BROWN
ROBERT D. SIDEL
JOSEPH W. GUARTE
PHILIP SHULMAN

Additional General Partners may be admitted from time to time with the consent of all of the partners. Additional Limited Partners may be admitted from time to time with the consent of the General Partners as provided in paragraph 4.1 below.

1.3 The business of the partnership shall be the following:

(a) As underwriters, brokers, dealers or traders, to buy, hold and sell securities and commodities of all types, and

(b) To act generally as investment brokers, investment advisors and in such other related business activities as to the Executive Committee of the General Partners seems necessary or desirable.

(c) For the account of the partnership, to

invest in, buy, sell and hold all kinds of rights and properties, whether real or personal.

II. TERM

2.1 The term of the partnership shall commence as of January 1, 1969 and shall expire December 31, 1971 unless sooner terminated by consent of the General Partners, given as provided in paragraph 4.1 below. The occurrence of the death, adjudication of incompetence or withdrawal of a General Partner shall not terminate the term of the partnership but shall be treated in all respects as a request for voluntary withdrawal by the General Partner as provided in paragraph 7.1(a) below, to take effect as at the last day of the calendar month in which such event occurs.

2.2 Notwithstanding anything to the contrary contained in these Articles, if the General Partners or any of them shall desire to continue the business after the expiration of the term of the partnership and have the benefit and use of the firm name they shall have the right to do so, and in the event of any disagreement among the General Partners as to the composition of the new firm, the decision of that group of former partners whose partnership shares in the aggregate exceeds the partnership shares of the other claimants to the benefit and use of the firm name, shall control.

III. CAPITAL - INTEREST THEREON

3. The Committed Capital of the firm has been contributed as follows:

GENERAL PARTNERS	AMOUNT OF CAPITAL
LEO STERN	$212,500.00
ROBERT L. NEWBURGER	$412,500.00
ANDREW M. NEWBURGER	$200,000.00
ROBERT L. STERN	$412,500.00
CHARLES H. GROSS	$412,500.00
GEORGE F. CONNIFF	$ 25,000.00
EDWARD R. HOLT	$ 75,000.00
HAROLD J. RICHARDS	$100,000.00
ADOLPHUS ROGGENBURG	$ 25,000.00
JULIUS S. SCHWALL	$ 31,250.00
WILLIAM A. McGOVERN	$ 12,500.00
NED D. FRANK	$ 75,000.00
SANFORD ROGGENBURG	$ 12,500.00
JOHN F. SETTEL	$125,000.00
RICHARD D. STERN	$ 75,000.00
LEWIS A. BRACKER	$ 25,000.00
FRED KAYNE	$ 50,000.00
EDMUND M. RUBIN	$ 25,000.00
JACOB SCHAFER	$ 12,500.00
JOSEPH L. SEARLES, III	$ 12,500.00
CHARLES SLOANE	$ 50,000.00
ROBERT F. THERESE	$ 50,000.00

LIMITED PARTNERS		AMOUNT OF CAPITAL
ELLA L. NEWBURGER ANDREW E. NEWBURGER ROBERT L. NEWBURGER DONALD L. NEWBORG	)As Trustees under)the last Will and)Testament of)Lester M. Newburger, Deceased.	$250,000
MAY U. NEWBURGER) GEORGE B. LEVY)	As Executors of and Trustees under the Last Will and Testament of Morris Newburger, Deceased.	$714,812.86
GERALD N. FRANK		$581,243.99
WILLARD S. IRLE		$718,585.50
JEANNE G. DONOGHUE		$ 75,000.00
MABEL BLEICH		$ 75,000.00
JACK WACHS		$100,000.00
SAUL A. BROWN		$100,000.00
ROBERT D. SIDEL		$100,000.00
JOSEPH W. QUARTE		$440,000.00
PHILIP SHULMAN		$250,000.00

3.2 Changes in Committed Capital may be effected only with the consent of the Executive Committee of the General Partners, provided, however, that any of the Limited Partners shall have the right, subject to the rights of then existing creditors of the partnership, upon thirty (30) days written notice given at any time and from time to time on and after December 1, 1969 to withdraw up to ten (10%) percent of his capital in any one calendar month, so long as the aggregate of such withdrawals shall not exceed fifty (50%) percent of his capital as described in paragraph 3.1 above. The Committed Capital contributed by Limited Partners may be contributed in the form of cash or in the form of securities, valued at 100% of the fair market value thereof as at the date contributed. The Committed

Capital for the General Partners may only be contributed in the form of cash except that with respect to Committed Capital contributed by any General Partner as at January 1, 1970 such Capital may be contributed wholly in the form of securities acceptable to the Executive Committee of the General Partners, valued however at 70% of the fair market value of such securities at January 1, 1970. With respect to the fiscal years of the partnership, commencing January 1, 1971 and January 1, 1972 (if the partnership term shall be extended) the securities contributed by a General Partner in respect of his Committed Capital contribution, valued at 70% of their fair market value as at January 1 of the applicable year may not exceed for 1971, two times the Committed Capital contributed by such partner in the form of cash; and for 1972, one-half (1/2) the Committed Capital contributed by such partner in the form of cash. With respect to the fiscal year of the partnership commencing January 1, 1973 (if the partnership term shall be extended) the Committed Capital of the General Partners may only be contributed in the form of cash.

3.3 The General Partners, or any of them, may from time to time contribute additional capital subject to the approval of the Executive Committee and any General Partner contributing additional capital may withdraw all or part of such additional capital upon notice to the Executive Committee, and at the request of the Executive Committee must withdraw so much of such additional capital as may be requested of him by the Executive Committee within thirty (30) days after receipt of such request.

3.4 Interest shall be paid on the capital contributions of the Partners as follows: The General Partners shall receive no interest on their respective

contributions of Committed Capital; with respect to additional capital contributed by the General Partners and with respect to the Committed Capital contributions of the Limited Partners, interest shall be paid on cash capital contributed at the call rate plus two (2%) percent per annum, except that as to Limited Partners such rate of interest shall in no event be less than six (6%) percent per annum nor more than the maximum rate permitted by the New York Stock Exchange. Interest shall be paid in respect of capital contributions in the form of securities at the rate of two (2%) percent per annum of the value thereof, which value shall be computed monthly. For the purposes of determining the rights of the partners, General and Limited, among themselves, all profits, losses, income and charges attributable to securities so contributed and to securities purchased by such partner for his own account with the proceeds of such securities and of capital contributions in cash shall be credited or charged to each partner's respective individual account and shall not be treated as partnership income or expense. In addition, Ned D. Frank shall be entitled to receive compensation for the use of his membership in the New York Stock Exchange, such compensation to be computed quarterly at the rate of two (2%) percent per annum on the value of such seat, determined by the average price for consummated sales of memberships during the calendar quarter just concluded. All such interest and compensation shall be computed and paid over or credited to the respective partners quarterly.

3.5 All securities, cash and other property of any kind or nature and all interest therein which may from time to time be held by the partnership for each General Partner or on his behalf and

designated on the books of the partnership as a capital account shall forthwith, upon receipt thereof by the partnership, become and be partnership property and shall be treated for all purposes as capital contributed by him, provided, however, that solely for the purpose of determining the rights of the partners among themselves, all profits, losses, income and charges in connection with such securities, cash, property and interests therein shall be credited or charged to each partner's respective individual account and shall not be treated as partnership income or expense, and upon the termination of the partnership he shall be considered as having a claim against the firm with respect to such securities, cash, property and interest therein, which claim shall be subordinate in right of payment and subject to the prior payment or provision for payment in full of claims of all present and future creditors of the partnership (and any successor partnership in which he may be a General Partner) arising out of any matters occurring before the termination of such partnership. The parties hereto further agree that in the event any such partner ceases to be a partner, otherwise than pursuant to paragraph 7.2 hereof, and the continuation of the partnership by the remaining or surviving partners, with or without other partners or the formation by the remaining or

surviving partners of a successor firm with or without other partners, which continuing or successor partnership or firm hold such securities, cash, other property or interests therein for the former partner, or for his estate, all such securities, cash, other property or interests therein held at the time such former partner ceased to be a partner shall continue to be treated as partnership property and shall be treated for all purposes as capital contributed by such former partner to the continuing or successor partnership or firm for a period of twelve (12) months after the date on which such former partner ceased to be such, during which time, subject to the provisions of paragraph 8.3 below, no withdrawal of any such securities, cash or other property may be made by such former partner or his heirs or personal representatives. Upon the expiration of said period of twelve (12) months, such former partner or his heirs or personal representatives (if an election to become a Limited Partner as authorized in paragraph 8.3 shall not have been made) shall have a claim against such continuing or successor partnership or firm with respect to such securities, cash, other property and interests therein, which claim shall be subordinate in right of payment and subject to the prior payment or provision for payment in full of all claims of all

creditors of the partnership in which such former partner was a partner and of all creditors of the continuing or successor partnership or firm out of any matters occurring before the expiration of said period of twelve (12) months.

3.6 The liability of each of the Limited Partners shall be limited to his capital in the firm.

IV. CONDUCT OF THE BUSINESS

4.1 The General Partners shall carry on, manage and have full control of the partnership business. In all matters requiring vote or consent of the General Partners pursuant to these Articles of Limited Partnership, each General Partner shall have a number of votes (or fraction thereof) equal to the number of partnership shares standing to his name as set forth in paragraph 6.3. Except where unanimity is required by these Articles, the vote of consent of the General Partners shall be deemed properly given if affirmative votes representing a majority in number of all then outstanding partnership shares are cast. However, if any General Partner is prohibited by these Articles from voting upon or consenting to the matter at hand, or if any General Partner elects not to vote, such vote or consent of the General Partners may be given by a majority of the votes cast, provided; of course,

that reasonable opportunity to vote or consent has been afforded all those General Partners eligible to vote or consent.

4.2 The General Partners as among themselves shall be governed by the following rules of conduct:

(a) Each General Partner shall:

(1) Make the promotion of the interests of Newburger, Loeb & Co. his sole business endeavor, except at otherwise authorized by the Executive Committee.

(2) Exercise his best efforts in furtherance of the firm business;

(3) Conform to the rules of those Exchanges to which the firm belongs or on which they deal through a partner (in case of conflict the rules of the New York Stock Exchange shall govern); and

(4) Exercise due care in the performance of his activities for the firm (including, but not limited to, the guaranteeing of signatures to customers' stock certificates.

(b) No General Partner shall:

(1) Engage in any business other than as a member of Newburger, Loeb & Co. except as permitted by the Executive Committee;

(2) Wilfully do any act adverse to the interest of the firm;

(3) Except as provided in paragraph 4.4, make any investment for the firm account or enter into any syndicate;

(4) Assign, sell or pledge his interest in the firm or its property or attempt to do so or permit any charging order to be imposed on his interest in the firm or any receiver thereof to be appointed;

(5) Bring any action for the dissolution or winding up of the partnership, or otherwise by any act or omission on his part cause the firm to be subject to judicial dissolution;

(6) Except with the consent of the Executive Committee, make, endorse or accept in the name of the firm any note, bill or draft as an accommodation, or make or enter into any bond as surety or guarantor, or release, discharge, compromise or postpone any debt or payment due the firm, or in any manner loan the funds or use the credit of the firm or subject the assets thereof to any lien or liability other than in the usual course of its business;

(7) Except with the consent of the Executive Committee, speculate or invest with his private funds through firms other than Newburger, Loeb & Co. in transactions of the nature handled in the ordinary course of the partnership's business. A General Partner having an account with Newburger, Loeb & Co. shall at all times maintain such margin as the Executive Committee may consider adequate and no part of his partnership capital interest may be used as margin in such account.

4.3 Leo Stern, Robert L. Newburger, Andrew M. Newburger, Robert L. Stern and Charles H. Gross are constituted an Executive Committee of the General Partners, which Committee by affirmative vote of a majority in number of its members shall have full power and authority on behalf of all of the partners of this firm at any time and from time to time to manage the affairs and business of the partnership, to the exclusion of the other General Partners, except where these Articles or the rules and regulations of any Securities Exchange of which the partnership is a member shall require otherwise. Without limiting the generality of the foregoing, the Executive Committee shall have the right to change its composition

by unanimous vote of its membership, except that its vote to remove a member of the Executive Committee shall not require his affirmative vote. If, for any reason or reasons the membership of the Executive Committee shall fall below three (3) then the member or members remaining shall elect additional members of the Executive Committee to bring such membership to three (3) or more. If the remaining member or members shall not expand the Committee as aforesaid within thirty (30) days after its membership shall fall below three (3) then the General Partners shall do so.

4.4 The Executive Committee designated in paragraph 4.3, or its designee or designees, is further authorized and empowered to make investments for the partnership and to enter into syndicates on behalf of the partnership in connection with any matter, thing or venture which they in their discretion deem proper.

V. EXCHANGE MEMBERSHIPS

5.1 Mr. William A. McGovern, Mr. Joseph L. Searles, III and Mr. Hed D. Frank are members of the New York Stock Exchange; Mr. Richard D. Stern is a

member of the American Stock Exchange. The foregoing partners shall for convenience be referred to in this Article as "Member". Each Member contributes the use of his membership to the firm and agrees that insofar as it is necessary for the protection of the creditors of the partnership (and subject to the Constitution and Rules of the particular Exchange of which he is a member) the proceeds of his said membership shall be an asset of the partnership.

5.2 Each of Messrs. McGovern, Searles and Richard D. Stern agrees that upon the dissolution of the partnership or his ceasing to be a General Partner therein or in any successor partnership, for any reason whatsoever, he or his legal representatives will comply with one of the three (3) following options:

(a) Retain his membership and pay to the partnership the amount necessary to purchase another membership in the same Exchange including the amount of any initiation and transfer fees required by such Exchange; or

(b) Sell his membership and pay the proceeds over to the partnership; or

(c) Transfer his membership for a nominal consideration to a person designated by the partnership and satisfactory to the Exchange of which

he is a member.

Subject only to his making the required payment each shall have the unqualified right to elect option (a). If he does not elect option (a) as herein provided, the partnership shall have the right to choose between option (b) and option (c). If the aforesaid Member or his legal representative does not declare his election of option (a) within thirty (30) days after the date on which notice is given that, on a specific date, (i) the partnership will be terminated, (ii) the firm will be dissolved, (iii) the firm will cease to be a member firm of the particular Exchange, or (iv) the Member's status as a partner will be terminated, the partnership may choose as to which of the other two options shall be exercised.

5.3 Each of Messrs. McGovern, Searles and Richard D. Stern agrees to execute and keep in effect a power of attorney in form satisfactory to the Exchange of which is is a member, appointing a General Partner of the firm his attorney-in-fact to execute

such documents in his behalf as may be required to E 429
transfer his membership pursuant to options (b) or (c) of paragraph 5.2, after the expiration of the period referred to therein during which option (a) may be elected. The use of any such power of attorney in any particular instance shall be subject to the approval of the Exchange affected.

5.4 Each of Messrs. McGovern, Searles and Richard D. Stern agrees to execute and keep in effect a last will and testament or a codicil thereto directing his legal representatives in the event of his death to comply immediately with the obligations expressed in this Article, including but not limited to compliance with options (b) or (c) as elected by the partnership. If any of the aforesaid Members should die, the partnership shall have the right to apply for the appointment of a temporary administrator pursuant to an appropriate court order and to require the temporary administrator to comply with the provisions of the particular option chosen by the partnership.

5.5 Each of Messrs. McGovern, Searles and Richard D. Stern agrees that if he should die, and if the partnership prior to its termination

and its successor firm are permitted by the Exchange of which he was a Member to have the status of a member firm notwithstanding his death, then the partnership and the successor firm shall be entitled to the use of his seat from the date of his death until the termination of such status or until a General Partner of the successor firm is duly admitted to membership therein, whichever event occurs first, and that insofar as may be necessary for the protection of creditors, and subject to the Constitution and Rules of the particular Exchange, the proceeds of his membership shall be an asset of the partnership or successor firm during such period, and any claims of his estate thereto shall be fully and completely subordinated to the claims of any and all creditors of such successor partnership or of both the present partnership and the successor partnership.

5.6 In addition to the memberships referred to in paragraph 5.1 through 5.5 above, the partnership is the owner of record or beneficially of memberships in other securities and commodities exchanges (hereinafter called the "Other Seats"). Any benefit derived or detriment suffered by reason of fluctuation in the value of the Other Seats or in the value of the memberships of Messrs. McGovern, Searles and Richard D. Stern shall be borne by all of the General Partners in the proportions in which profits and losses of the partnership are borne by them.

5.7 All expenses, dues and assessments incurred or paid in connection with all of the memberships referred to in this Article V, including assessments to pay benefits accruing on the deaths of members, shall be paid as an expense of the firm, to be deducted before arriving at its profits or losses. In the event of the death of a member (whether one of the Members referred to by name above or the nominal owner of one of the Other Seats) the partnership shall have no interest in any benefit or gratuity payable under the Constitution or Rules of the applicable Exchange nor shall the partnership have any claim therefor.

5.8 The membership of Mr. Ned D. Frank in the New York Stock Exchange shall be and remain his absolute property at all times during the term of this agreement. All fluctuations in the value of that membership shall be borne by Mr. Frank alone, and he shall have the right at any time to sell or otherwise dispose of that membership for his own use and benefit, except to the extent required under paragraph 5.1 above.

VI. PROFITS AND LOSSES

6.1 In establishing the annual Net Profits of the business, the General Partners shall provide for the payment of all expenses whatsoever of operating the business including, without limiting the generality of the foregoing, compensation to General

Partners and Limited Partners for the use of capital, salaries to the General Partners and such accruals and reserves as to them seem proper and necessary. Interest and compensation for the use of capital as provided in paragraph 3.4 above and salaries to the General Partners as hereinafter provided shall be payable whether or not there shall be Net Profits.

6.2 If there shall be Net Profits, then each Limited Partner shall be entitled to receive twenty-five hundredths of one (.25 of 1%) percent of the Net Profits for each $100,000 in average outstanding value of capital contributed in the form of securities and two-tenths of one (.2 of 1%) percent of the Net Profits for each $50,000 in average outstanding value of capital contributed in form of cash during the year in which such profits were earned. The value of each Limited Partner's capital account shall be computed monthly for the purposes of computing interest as provided in paragraph 3.4 above. Changes in value of capital contributed in the form of securities for the purposes of determining a limited partner's entitlement to profits shall not be taken into account in computing average outstanding value so long as the value of the capital account at the end of each month shall not fall below eighty (80%) percent nor rise above one hundred twenty (120%) percent of the value of the

capital contributed as at the commencement of the partnership year. If the actual value shall be above or below these limits, then adjustment shall be made in computing the Limited Partner's share of profits as follows:

Percent Change In Average Value	Per $100,000 Value Contributed
(a) More than 20% but less than 40%	Add (if increase) or subtract (if decrease) .05% of Net Profits.
(b) More than 40% but less than 60%	Add or subtract .10% of Net Profits.
(c) More than 60% but less than 80%	Add or subtract .15% of Net Profits.
(d) More than 80% but less than 100%	Add or subtract .20% of Net Profits.

Capital contributed in the form of cash or which in the course of any partnership year may be converted from securities into cash, shall not be treated as cash capital contributed unless and until it shall remain in the form of cash for thirty (30) convesutive days, and vice versa.

6.3 A float equal to fifteen (15%) percent of one hundred (100%) percent of the Net Profits of the partnership may be distributed among the General Partners as the Executive Committee may from time to time determine. The remaining profits of the business

shall be shared among the General Partners in the proportion which each partner's respective "Partnership Shares" bears to 97 1/4.

General Partners	Partnership Shares
LEO STERN	8 1/2
ROBERT L. NEWBURGER	16 1/2
ANDREW M. NEWBURGER	8
ROBERT L. STERN	16 1/2
CHARLES H. GROSS	16 1/2
GEORGE F. CONNIFF	1
EDWARD R. HOLT	3
HAROLD J. RICHARDS	4
ADOLPHUS ROGGENBURG	1
JULIUS S. SCHNALL	1 1/4
WILLIAM A. McGOVERN	1/2
NED D. FRANK	3
SANFORD ROGGENBURG	1/2
JOHN F. SETTEL	5
RICHARD D. STERN	3
ROBERT F. THERESE	2
EDMUND M. RUBIN	1
JACOB SCHAFER	1/2
JOSEPH L. SEARLES, III	1/2
CHARLES SLOANE	2
FRED KAHN	2
LEWIS A. MACKLER	1
TOTAL	97 1/4

6.4 If the operations of the firm should result in a net loss, then as among the partners, the General Partners shall be responsible for all the net loss, which net loss shall be borne by them in the proportion that they hold partnership shares as set forth in paragraph 6.3 above. No part of any net loss shall be borne by the Limited Partners.

6.5 Until agreed to the contrary by the Executive Committee, each of the General Partners shall receive the following as his annual salary:

Name	Annual Amount
LEO STERN	$40,000
ROBERT L. NEWBURGER	$60,000
ANDREW M. NEWBURGER	$60,000
ROBERT L. STERN	$60,000
CHARLES H. GROSS	$75,000
GEORGE F. CONNIFF	$25,000
EDWARD R. HOLT	$45,000
HAROLD J. RICHARDS	$50,000
ADOLPHUS ROGGENBURG	50% of Ordinary Commission and Fees (as hereinafter defined)
JULIUS S. SCHNALL	$25,000
WILLIAM A. McGOVERN	$30,000
NED D. FRANK	$50,000
SANFORD ROGGENBURG	50% of Ordinary Commissions and Fees

Name	Annual Amount
JOHN F. SETTEL	$50,000
RICHARD D. STERN	$30,000
ROBERT F. THERESE	$38,400
EDMUND M. RUBIN	$22,000
JACOB SCHAFER	40% of the first $60,000 of Ordinary Commissions and Fees and 45% thereafter.
JOSEPH L. SEARLES, III	$28,600
CHARLES SLOANE	$45,000
FRED KAYNE	35% of the first $50,000 of Ordinary Commissions and Fees and 40% thereafter.
LEWIS A. BRACKER	35% of the first $50,000 of Ordinary Commissions and Fees and 40% thereafter.

In establishing the above, the parties acknowledge that each of the General Partners is expected to travel and to entertain customers and others with whom the firm has valuable existing or potential relationships at his own expense.

6.6 All commissions, emoluments and fees of any kind received by any General Partner from any business in securities transacted on the New York Stock Exchange, on the American Stock Exchange or otherwise, or from any business in which the firm engages except directors' fees or fees received as officers of family corporations for which no substantial time is spent, shall be paid to the firm. For the purposes of the computation of compensation pursuant to para-

graph 6.5 above "Ordinary Commissions and Fees" shall be all the commissions, emoluments and fees payable at established fixed rates of commission on account of transactions in securities conducted for others, and to the extent permitted by the applicable rules of any securities exchange or governmental or nongovernmental regulatory agency, on account of transactions in securities conducted for the General Partner conducting the same. With respect to all other commissions, fees and emoluments which the firm shall receive by reason of business transacted for others the compensation on account thereof to the General Partners who shall have generated such business shall be determined by the Executive Committee.

VII. CEASING TO BE A PARTNER

7.1 Voluntary Withdrawal

(a) Any General Partner may withdraw from the partnership upon not less than thirty (30) days written notice to the partnership and to the New York Stock Exchange. Upon the effective date set forth in such notice, the partner giving notice shall cease to be a partner for all purposes and shall be paid out as provided in Article VIII below. His right to receive any portion of the salary which

shall not theretofore have accrued, shall terminate as at the effective date of the notice. Anything to the contrary in this agreement notwithstanding, a partner who shall withdraw as provided in this paragraph 7.1 may not, until the date then stated as expiration (as distinguished from sooner termination) date of the partnership in paragraph 2.1 of the then current Articles of Limited Partnership, engage in the business of broker or dealer in securities and commodities whether for his own account or for others.

(b) Any Limited Partner may withdraw from the partnership upon six (6) months written notice to the partnership of election to withdraw, given at any time on or after June 30, 1969 and such withdrawal shall be effective as of the last day of the applicable calendar month, provided, however, that if the General Partners and the withdrawing Limited Partner shall so agree, the effective date of such withdrawal may be advanced. The Limited Partner so withdrawing shall be paid out the amount of his capital contributions on the effective date of such withdrawal and the amount of his share of profits, if any, within forty-five (45) days after the end of the then current partnership year.

7.2 Mandatory Withdrawal

(a) Any General Partner who, in the determination of the Executive Committee, shall:

(1) violate any of the provisions of paragraph 4.2 or otherwise engage in a material breach of these Articles; or

(2) become bankrupt or insolvent or make an assignment for the benefit of creditors; or

(3) be enjoined by a court or governmental regulatory agency of competent jurisdiction from engaging in any activity in which the firm is engaged; or

(4) do or suffer any other act or thing other than his own death or adjudication whereby at law or in equity the partnership might be deemed dissolved or by reason of which dissolution might be decreed; or

(5) do or suffer any act or thing which in the unanimous opinion of the Executive Committee is contrary to the best interests of the partnership;

shall upon declaration to such effect by the Executive

Committee forthwith cease to be a partner. If any General Partner shall be notified that he has ceased to be a partner, he may dispute such action only by arbitration in accordance with the provisions of paragraph 11. If the arbitrators rule in favor of such partner, he may be reinstated as of the date that he, except for the decision of the arbitrators, would have ceased to be a partner. If arbitration is not sought or if the arbitrators rule against him, he shall be paid out as provided in Article VIII.

(b) The General Partners may require any Limited Partner to withdraw from the partnership upon a finding by the Executive Committee that such Limited Partner has conducted himself in a manner contrary to the best interests of the partnership. Such Limited Partner shall be paid out as provided in Article VIII.

7.3 Death or Adjudication

The death of any General Partner or the adjudication of any General Partner as an incompetent (referred to in these Articles as "adjudication") shall not be events terminating the partnership, but shall be treated in all respects as a request for voluntary withdrawal as provided in paragraph 7.1 (a) above, the effective date for which shall be the last day of the calendar month in which such event occurs. The

or adjudication of a Limited Partner and in the case of a Limited Partner which is a trust, the termination of the trust shall not terminate the partnership. Such event shall be treated in all respects as a request for voluntary withdrawal as provided in paragraph 7.1 (b) above, given on the date of such adjudication, death, or termination and the interest of such Limited Partner shall be paid out as provided in paragraph 7.1(b) above. The death or adjudication of a Limited Partner acting in a fiduciary capacity shall not be treated as a request for a voluntary withdrawal.

VIII. COMPUTING AND PAYING THE INTEREST OF A FORMER PARTNER

8.1 The interest of a former partner or the legal representatives of a deceased or adjudicated partner shall be computed and paid out as follows:

(a) In the case of a Limited Partner, on the effective date of withdrawal.

(b) The former partner's interest as at the previous January 2nd shall be taken as a basic figure. To that figure shall be added the following: contributions made by the partner since such date, interest or compensation for the use of capital to the effective date, salary due, if any, and the

partner's share of the profits of the business, if any, to the effective date. There shall be subtracted all withdrawals and payments of interest and the partner's share of losses, if any, from January 2nd last to the effective date. Profits or losses shall be computed by multiplying the net income (or loss) for the year by that fraction whose numerator is the gross income for the year to the effective date and whose denominator is the gross income for the year; provided, however, that in the case of a former Limited Partner, such former Limited Partner's share of profits shall be determined by multiplying the share of profits which would have been due to such Limited Partner under paragraph 6.2 above by a fraction whose denominator shall be twelve (12) and whose numerator shall be the number of the month in which the effective date occurs. Fixed assets shall be valued as stated upon the books of the partnership, less customary depreciation. With respect to all Exchange memberships other than the membership of Mr. Ned D. Frank, each such membership shall be valued at the average of the last three (3) contracted sales, provided, however, that if three (3) such sales shall not have been contracted for within the three (3) months prior to the effective date, then the value shall be the average of all contracts within the said three (3)

months. All securities shall be valued at their market value at the close of business on the day prior to the effective date after giving effect to all borrowing. No allowance shall be made for good will or for the value of the firm name in computing the value of a former partner's interest.

8.2 A former partner who has ceased to be a partner pursuant to paragraph 7.2 shall be paid out seventy-five (75%) percent of the value of his partnership interest within thirty (30) days of the effective date, together with interest from the effective date to the date of payment at the call rate, and the balance plus the share of profits (or less the share of any losses) within forty-five (45) days after the end of the partnership year with interest at the call rate to the date of payment.

8.3 The partnership interest of a former General Partner who has withdrawn pursuant to paragraph 7.1 or has died or has been adjudicated shall remain in the successor firm and at the risk of the business for a period of twelve (12) calendar months from the effective date. During that period the interest of such former partner shall be considered as capital of the partnership (which for the purposes of this section includes any successor firm) in the

same manner and to the same extent as capital contributed to the firm by a Limited Partner except for the automatic withdrawal rights of paragraph 3.2 above and any claim of the legal representatives of the former partner to such interest shall be subordinated in right of payment to, and subject to the prior payment or provision for payment in full of, the claims of all present or future creditors of the firm arising out of any matters occurring before the end of the period. In addition, subject to the approval in each case of the New York Stock Exchange, the personal representative of a deceased General Partner under a Will which authorizes such representative to become a partner in the firm may elect to become a Limited Partner in the partnership. Such election may be made only by giving written notice to the firm after such time as the partnership interest of the decedent shall be acceptable for inclusion in the computation of Net Capital under the applicable rules of the New York Stock Exchange, but not later than twelve (12) months after the effective date. Such election shall become effective upon the first day of the calendar month next following the date on which such election is made. The personal representatives of deceased or adjudicated partners and a withdrawing partner shall also have the right within thirty (30) days after the effective date to

demand and receive fifteen (15%) percent of the capital standing to the name of the former partner on the books of the partnership as at the effective date, and after forty-five (45) days after the end of the then current year to demand and receive the profits to the effective date attributable to the account of the former partner. A former partner or the legal representatives of a deceased partner, who shall not elect to become a Limited Partner, shall be treated as a subordinated lender, and shall be paid interest, quarterly, under the highest rate permitted under the laws of New York and the rules of the New York Stock Exchange for so much of the retained capital interest as is represented by cash and two (2%) percent per annum for securities (in addition to any interest or dividends on such securities) and the said retained capital interest shall be paid to the former partner or his legal representatives promptly after the close of the twelve (12) month period.

IX. LIQUIDATION

9.1 If the term of the partnership should end and if no General Partners desire to form a successor firm to continue its business, then the partnership shall be dissolved. The accounts of the firm shall be audited as provided in Article X and there

shall be created such reserves for contingent and undisclosed liabilities as the General Partners may deem adequate. The assets of the partnership, except to the extent that they shall be distributed in kind, shall thereupon be liquidated with such dispatch as is consonant with an efficient liquidation and a prudent realization of values. The Exchange membership of Mr. Med D. Frank shall continue to remain his property. If another of the Exchange memberships is sold with the proceeds payable to the partnership, or if a partner holding such a membership elects to retain his seat and pay the firm the amount necessary to purchase another membership, the avails of any such transaction shall be shared among the General Partners in the same way the profits of the partnership are shared.

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9.2 After all debts and liabilities, other than those to partners shall be fully paid or adequately provided for, the balance remaining, if any, shall be paid to the partners in the following order of priority:

(a) In payment of indebtedness owing to any of the partners, other than for capital contributions and interest thereon or compensation therefor;

(b) In payment of the partnership

interest of any withdrawn, deceased or adjudicated partners still at the risk of the business;

(c) In payment of capital of the Limited Partners;

(d) In payment of interest or compensation for the use of capital;

(e) In payment of accrued salaries to the General Partners; and

(f) In payment of capital of the General Partners.

Any balance then remaining shall be divided among the General Partners in the proportion that they are entitled to participate in the profits of the firm. Each such payment shall however be made subject to partial or total repayment in the event that any liability of the partnership not completely provided for shall subsequently be established.

9.3 The General Partners shall determine the extent to which the payments described in paragraph 9.2 shall be made in kind or in cash. Payment of the capital contributed in the form of securities shall, so far as possible, be made in the securities contributed.

9.4 If the assets of the partnership are insufficient to fully pay or adequately provide for the full payment of all liabilities of the partnership

(except the payment of capital to partners) then each General Partner who pursuant to paragraph 6.4 shares in net yearly losses shall pay to the partnership his proportionate part of such additional sums as will be necessary to fully pay or provide for the full payment of those liabilities. That payment shall be due within ninety (90) days after the final audit referred to in paragraph 9.1 is rendered.

X. ACCOUNTING

10. Accurate books of account of the partnership business shall be kept. Each of the partners shall have access to such books and the right to have the books examined by a responsible public accountant at such times as shall not interfere with the general business of the firm, but at the sole expense of the partner seeking such examination.

XI. ARBITRATION

11. In the event of any disagreement or controversy arising between any of the parties hereto, either during the continuation of the partnership or after its termination, either with respect to conduct of the business of the partnership, the distribution

of its assets or any interpretation of the terms of this agreement or any other dispute of whatsoever kind having relation to the subject of the partnership, such dispute or controversy shall be determined by arbitration. Such arbitration shall be held in the City of New York pursuant to the provisions of the Constitution and Rules of the New York Stock Exchange or the Constitution and Rules of the American Stock Exchange. Any election to arbitrate under the constitution and Rules of the New York Stock Exchange shall have precedence over any election to arbitrate under the Constitution and Rules of the American Stock Exchange.

XII. MISCELLANEOUS

12.1 All previous Articles of Copartnership or Limited Partnership, together with all amendments

thereto and all schedules attached thereto and all previous agreements between the partners as to any matter referred to in these Articles are deemed merged in these Articles and shall have no independent force or effect.

12.2 These Articles are subject in all respects to the Constitution and Rules of the Board of Governors of the New York Stock Exchange and of any Officer or Committee thereof having power to promulgate rules or regulations and to the Constitution, Rules and By-laws of any other Exchange of which the firm may be a member or on which it may deal through a partner, and to the Charter, By-laws and Rules of the Stock Clearing Corporation, the clearing corporation of any Exchange of which the firm may be a member or on which it may deal through a partner and the National Association of Security Dealers. These Articles shall take effect subject to such Constitutions, Charters, By-laws, Rules and Regulations, shall be construed in the light thereof and shall be deemed to be modified pro tanto without any further act or agreement of the partners as the same shall be changed or extended from time to time. In the event of any conflict between or among such Constitutions, Charters, By-laws, Rules or

Regulations, the authority and rules of the New York Stock Exchange shall govern and control.

12.3 If any person listed herein as a partner shall not execute a counterpart of this agreement, or shall for any reason not be approved for admission to Newburger, Loeb & Co. by the New York Stock Exchange or any other exchange or authority whose approval is required, then such partner shall be deemed not a party hereto and any capital contributed by such person shall be returned to him (subject to any prior agreement between such person and any predecessor of this firm) without interest, and upon such payment all obligations of this partnership to such person and of such person to this partnership shall cease and be of no further force and effect.

12.4 Each of the undersigned General Partners makes, constitutes and appoints any one of the other of the General Partners his true and lawful attorney in fact, in his name, place and stead to make, execute, deliver, acknowledge and file any and all amendments to the Certificate of Limited Partnership of the partnership as required under the laws of the State of New York.

12.5 Each of the undersigned Limited Partners other than those Limited Partners acting in a fiduciary capacity makes, constitutes and appoints any member of the Executive Committee of the General Partners his true and lawful attorney in fact, in his name, place and stead to make, execute, deliver, acknowledge and file (i) certificates of limited partnership of the partnership and certificates of amendment thereto as required under the laws of the State of New York and (ii) such other instruments as may be deemed desirable by the said attorney in fact upon the termination of the partnership.

12.6 The Executive Committee referred to in paragraph 4.3 above or any three members thereof shall have full power and authority on behalf of all of the partners of this firm, at any time and from time to time, in accordance with the Rules of any National Securities Exchange (a) to designate one or more persons (i) to assign securities registered in the name of the firm, (ii) to execute powers of substitution, (iii) to guarantee the signatures of others to assignments of securities, and (iv) to make any certification or guarantee of any signature or document submitted in support of the transfer of any securities, all with the same effect as if the name of the firm had been signed under

like circumstances by one of the General Partners of the firm, (b) to adopt and authorize the use of a mechanically reproduced facsimile signature of the firm in connection with (i) the assignment of securities registered in the name of the firm, and (ii) the execution of powers of substitution, (c) to designate one or more of the employees of this firm to sign written contracts covering "seller's option," "when issued" and "when distributed" transactions in the name of the firm with the same effect as if the name of the firm had been signed under like circumstances by one of the General Partners of the firm, and (d) to execute and file with any National Securities Exchange, in the name and on behalf of this firm, and the several partners thereof, any and all such powers of attorney, agreements and other instruments (including agreements of indemnification) as may by such Exchange be required to evidence or support action under (a), (b) or (c) above.

Each partner upon executing these articles of partnership specifically ratifies and approves all such powers of attorney, agreements and other instruments (including agreements of indemnification) as may theretofore have been executed and filed on behalf of this firm with any National Securities Exchange and which are still in force in connection with any matter described in (a), (b) or (c) above.

12.7 This agreement may be executed in counterparts, all of which taken together shall constitute one original.

IN WITNESS WHEREOF, the parties have executed this instrument as of the 26th day of February, 1970, to take effect with respect to profits and losses of the partnership for the year 1970 as of March 1, 1970.

GENERAL PARTNERS:

LEO STERN

ROBERT L. NEWBURGER

ANDREW M. NEWBURGER

ROBERT L. STERN

CHARLES H. GROSS

GEORGE F. CONNIFF

EDWARD R. HOLT

HAROLD J. RICHARDS

ADOLPHUS ROGGENBURG

JULIUS S. SCHNALL

WILLIAM A. McGOVERN

NED D. FRANK

SANFORD ROGGENBURG

JOHN F. SETTEL

RICHARD D. STERN

GENERAL PARTNERS (cont'd):

E 455

LEWIS A. BRACKER

FRED KAYNE

EDMUND M. RUBIN

JACOB SCHAFER

JOSEPH L. SEARLES, III

CHARLES SLOANE

ROBERT F. THERESE

LIMITED PARTNERS:

ELLA L. NEWBURGER, ANDREW M. NEWBURGER, ROBERT L. NEWBURGER, and DONALD L. NEWBORG, as Executors of and Trustees under the Last Will and Testament of Lester M. Newburger, Deceased.

MAY U. NEWBURGER, and GEORGE B. LEVY as Executors of and Trustees under the Last Will and Testament of Morris Newburger, Deceased.

GERALD N. FRANK

WILLARD S. IRLE

JEANNE G. DONOGHUE

MABEL BLEICH

JACK WACHS

SAUL A. BROWN

ROBERT D. SIDEL

JOSEPH W. QUANTE

PHILIP SHULMAN

Defendants' Exhibit W

E 456

Mandel

1/15/70

Document & talk

Orderly

— Prod Plan & Liquidation

$300,000

Wants some cash - most paper & cash but personal guar

Minimal weight to overhead 5 on 10's

Guar - has to be w
Owns - other
Partner - esp. on
Key - one mng
Individually -

Invitation open for Board - Lunch
Call

Defendants' Exhibit X

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

E 457

NEWBURGER, LOEB & CO., a New York Limited Partnership, as Assignee of David Buckley and Mary Buckley,

Plaintiff,

-against-

CHARLES GROSS and GROSS & CO.,

Defendants.

----------X

PLAINTIFF DEMANDS TRIAL BY JURY

SUMMONS

Index No.

TO THE ABOVE NAMED DEFENDANTS:

You are hereby summoned and required to serve upon FINLEY, KUMBLE, UNDERBERG, PERSKY & ROTH, ESQS., plaintiff's attorneys, whose address is 477 Madison Avenue, New York, New York 10022 an answer to the complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

_____
Clerk of the Court

_____
Deputy Clerk

Dated: New York, New York
February , 1971

[Seal of Court]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

E 458

----------X

NEWBURGER, LOEB & CO., a New York Limited Partnership, as Assignee of David Buckley and Mary Buckley,

Plaintiff,

-against-

CHARLES GROSS and GROSS & CO.,

Defendants.

COMPLAINT

Index No.

----------X

Plaintiff, complaining of defendants by its undersigned attorneys, Messrs. FINLEY, KUMBLE, UNDERBERG, PERSKY & ROTH, alleges:

JURISDICTION

1. This Court's jurisdiction is based upon: Section 22(a) of the Securities Act of 1933, as amended, 15 U.S.C. §77v(a) (the "Securities Act"); Section 27 of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §78aa (the "Exchange Act"); and the principles of pendent jurisdiction.

2. This action is instituted as the result of defendants' violation of Section 17(a) of the Securities Act; Sections 10(b) and 15(c) of the Exchange Act; the Rules and Regulations of the Securities Exchange Commission (the "SEC") promulgated under both Acts and in particular: Rule 10b-5, 17 C.F.R. 240.10b-5; Rule 15c1-7, 17 C.F.R.

240.15c1-7; the Rules of the National Association of Security Dealers (the "NASD"); and common law principles.

PLAINTIFF

3. Plaintiff Newburger, Loeb & Co., is a Limited Partnership organized and existing under the laws of the State of New York, with its principal place of business at 5 Hanover Square, New York, New York.

4. On or about December 30th, 1970, for good and sufficient consideration, David Buckley and his wife Mary Buckley (the "Buckleys"), then residing at 82 West River Road, Rumson, New Jersey, assigned to the plaintiff all of their claims and causes of action against the defendants herein.

DEFENDANTS

5. Defendant Charles Gross is an individual residing at 32 The Intervale, Roslyn Heights, New York. During all relevant times upon information and belief, he was a partner, agent and employee of defendant Gross & Co.

6. Defendant Gross & Co., upon information and belief, was a partnership organized and existing under the laws of the State of New York. During all relevant times, it was principally engaged as a broker and dealer in securities, transacting business in the City, County and State of New York.

FOR A FIRST CAUSE OF ACTION

7. This first cause of action is instituted under Section 22(a) of the Securities Act to enforce the liability created by Section 17(a) of the Securities Act.

8. During a four and a half (4-1/2) year period between April 1962 and August 1966, the defendants, by the use of the mails and other instruments of transportation or communication in interstate commerce, directly and indirectly engaged in transactions, practices or courses of business, hereinafter more fully set forth, which operated and were calculated to operate as a fraud and deceit upon the Buckleys, in connection with the offer and sale of securities.

9. Between April 1962 and August 1966, the Buckleys maintained a margin account with defendant Gross & Co.

10. During that 4-1/2 year period, defendant Charles Gross was the partner and registered representative of defendant Gross & Co., with which the Buckleys dealt.

11. During that 4-1/2 year period, defendant Charles Gross suggested, encouraged and effected a total of more than 1,100 transactions in the margin account of the Buckleys.

12. Upon information and belief, all of the more than 1,100 transactions effected in the margin account of the Buckleys were made pursuant to the advice of defendant

Charles Gross, the Buckleys relying not only upon the professed knowledge and expertise of defendant Charles Gross in the securities market, but also upon the fiduciary relationship of broker to customer.

13. The total dollar amount of purchases and sales during that 4-1/2 year period was $9,329,557. The average investment by the Buckleys' in the account during that same period was $107,520. Thus, the average investment of the Buckleys' in the account was turned over approximately 40 times.

14. The unusually excessive and, under the circumstances, totally unwarranted heavy trading was not consistent with and was in derogation of defendant's primary duty to advise and encourage sound investment decisions.

15. The unusually excessive and, under the circumstances, totally unwarranted heavy trading in the Buckleys' account was suggested, encouraged and effected primarily for the purpose of generating commissions, which, upon information and belief, were in excess of $75,000.

16. The unusually excessive and, under the circumstances, totally unwarranted heavy trading in the Buckleys' account resulted in net losses to the Buckleys exceeding $174,000.

FOR A SECOND CAUSE OF ACTION

17. This second cause of action is instituted under Section 27 of the Exchange Act, to enforce rights arising out of defendants' violation of Section 10 of the Exchange Act, and Rule 10b-5 promulgated thereunder, 17 C.F.R. §240.10b-5.

18. Plaintiff repeats each and every allegation set forth in paragraphs "8" to "16" with the same force and effect as if the same were hereat fully set forth.

FOR A THIRD CAUSE OF ACTION

19. This third cause of action is instituted under Section 27 of the Exchange Act, to enforce rights arising out of defendants' violation of Section 15(c) of the Exchange Act and Rule 15c1-7 promulgated thereunder, 17 C.F.R. 240.15c1-7.

20. Plaintiff repeats each and every allegation set forth in paragraphs "8" to "16" with the same force and effect as if the same were hereat fully set forth.

FOR A FOURTH CAUSE OF ACTION

21. Plaintiff repeats each and every allegation set forth in paragraphs "8" to "16" with the same force and effect as if the same were hereat set forth in full.

22. Defendants have violated common law duties owed by them to the Buckleys.

FOR A FIFTH CAUSE OF ACTION

23. Plaintiffs repeat each and every allegation set forth in paragraphs "8" to "16" with the same force and effect as if the same were hereat set forth in full.

24. That by reason of the fraudulent conduct and deceit practiced and participated in by the defendants, the acts and practices engaged in by the defendants which constitute violations of the Securities Act, the Exchange Act, and the Rules and Regulations promulgated under both acts, plaintiff has been compelled to and has engaged counsel to prosecute this action against the defendants herein.

25. Plaintiff has been informed and verily believes that the services to be rendered by said counsel could be extensive and may be required over a long period of time, and if not settled will require substantial cash disbursements in the prosecution of this action by reason of the complexity of the transactions in the account of the Buckleys, and will further require extensive examinations before trial and that the fair and reasonable value of the services to be rendered by said counsel in the investigation, preparation and trial of this action will be in excess of $50,000.

WHEREFORE, plaintiff NEWBURGER, LOEB & CO., as assignee of David Buckley and Mary Buckley, respectfully requests judgment as follows:

(a) on the FIRST, SECOND, THIRD and FOURTH CAUSES OF ACTION, money damages as against the defendants Charles Gross and Gross & Co., in excess of $249,000., jointly and severally, or such other measure of recovery for defendants' violations, as the court may deem just and proper;

(b) on the FIFTH CAUSE OF ACTION, money damages as against the defendants, jointly and severally, in excess of $50,000 or such other sum as the court may find just and reasonable as and for plaintiff's counsel fees; and

(c) such other, further and different relief as may be deemed just and proper;

together with interest from the date of the violations or wrongs hereinbefore set forth, with costs and disbursements.

Dated: New York, New York
February 4, 1971

FINLEY, KUMBLE, UNDERBERG,
PERSKY & ROTH

By: _____
ROBERT S. PERSKY
A Member of the Firm
Attorneys for Plaintiff
477 Madison Avenue
New York, New York 10022
212 755-7600

DEFENDANTS' EXHIBIT "Y"

Consists of the following numbered items:

Index to Defendants' Exhibit "Y", plus items 3-28 inclusive, as described in the aforementioned Index.

INDEX TO DEFENDANTS' EXHIBIT Y.

E 465

REORGANIZATION
OF
NEWBURGER, LOEB & CO.
INTO
NEWBURGER, LOEB & CO., INC.
UNDER
AGREEMENT DATED DECEMBER 31, 1970

FEBRUARY 11, 1971

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DEFENDANTS' EXHIBIT Y, Item No. 3.

E 468

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS that NEWBURGER, LOEB & CO., a New York limited partnership, with its principal office at 5 Hanover Square, New York, New York (hereinafter "Seller"), in consideration of the sum of Ten Dollars ($10) and other good and valuable consideration to it paid by Newburger, Loeb & Co., Inc., a Delaware corporation, with its principal office at 5 Hanover Square, New York, New York (hereinafter "Buyer"), receipt of which is hereby acknowledged, does hereby grant, bargain, sell, convey, assign, transfer, set over and deliver unto Buyer all of Seller's right, title and interest in and to all of its assets, real and personal, tangible and intangible, vested or contingent, of any nature whatsoever, including, without limitation, the assets set forth in Schedule "A" attached to and made a part hereof,

TO HAVE AND TO HOLD, all and singular, the same unto said Buyer, its successors and assigns, for its and their own use and benefit, forever.

Seller agrees that at any time, and from time to time after the delivery hereof, it will, upon request of Buyer, execute, acknowledge and deliver all such further deeds, bills of sale, assignments or other instruments as may be reasonably requested by Buyer, or may be required for the assigning, transferring, granting and conveying to Buyer

of any of the aforesaid assets.

Nothing herein contained shall in any way be deemed to limit the representations and warranties of Seller contained, nor the assumption of liabilities to the extent provided in an Agreement between Buyer and Seller dated as of the 31st day of December.

IN WITNESS WHEREOF, this instrument has been duly executed this 11th day of February, 1971.

NEWBURGER, LOEB & CO.

By _____
General Partner

By _____
General Partner

By _____
General Partner

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

On this 11th day of February, 1971, before me personally came Robert L. Stern, Robert Newburger, and Andrew H. Newburger to me known, and known to me, who, being by me duly sworn, did depose and say that they are ~~is a~~ general partners of Newburger, Loeb & Co.; that they ~~is a~~ are the persons who executed the above Bill of Sale, and that they was duly authorized to sign said instrument by said partnership.

_____
Notary Public

MICHAEL A. BAMBERGER
Notary Public, State of New York
No. 31-0183120
Qualified in New York County
Commission Expires 72

DEFENDANTS' EXHIBIT Y, Item No. 3.

NEWBURGER, LOEB & CO.

BALANCE SHEET

DECEMBER 31, 1970

E 470

UNAUDITED

ASSETS

CURRENT ASSETS		
Cash in Bank & on Hand		$ 142,251
Receivable from brokers & dealers		255,956
Receivable from W. E. Hutton & Co.		
- Commissions	$ 145,249	
- Floor Brokerage	20,283	
- Firm Trading	306,068	
- Omnibus	62,454	534.054
Receivables from customers unsecured (net of reserves)		217,644
Market value of securities in partners, firm and subordinated accounts		1,073,940
Prepaid expenses		
- Prepaid Conversion Cost	52,047	
- Prepaid Taxes	10,628	62,675
Other Current Assets		
- Good Faith Deposits	28,300	
- Receivable from Rosen & Co.	7,976	36,276
Total Current Assets		2,322,796
OTHER ASSETS		
Memberships in New York & American Stock Exchanges net of reserves		300,000
Furniture & Fixtures, net of depreciation		581,665
Investment and Advances to Subsidiary Corporations		
- N/L Holding Co.	38,500	
- N/L Sports Enterprises, Inc. (fully reserved)	- -	38,500
Subordinated Loan Receivable from W. E Hutton - cash		172,399
Subordinated Loan Receivable from W. E. Hutton- securities		206,617
MISCELLANEOUS		
Dividends Receivable (net of reserves $34,363)		2,783
Rent Deposit		5,970
James Anthony Liquidation ($11,148 fully reserved)		- -
Receivable from Partners		66,210
Other		2,570
TOTAL ASSETS		$3,699,510

Schedule A

311-

DEFENDANTS' EXHIBIT Y, Item No. 4.

DEFENDANTS' EXHIBIT Y, Item No. 4. E 471

ASSIGNMENT

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of good and valuable consideration paid by Newburger, Loeb & Co., Inc. ("Corporation") to Newburger, Loeb & Co. ("Partnership") and in accordance with an Agreement between Corporation and Partnership dated December 31, 1970:

1. Partnership does hereby irrevocably assign to Corporation all recoveries and claims with respect to the "back office" operations of Partnership and its 1967, 1968 and 1969 predecessors applicable to the period January 1, 1967 to the date hereof (the "Assigned Recoveries and Claims"), net of expenses, counterclaims, set offs and third party claims with respect to such operations (collectively "Set-Offs").

2. If subsequent to the date hereof the Partnership shall receive any funds or other property with respect to any Assigned Recoveries and Claims which shall be in excess of otherwise unrecouped Set-Offs, such excess shall be held in trust by Partnership for the benefit of Corporation and shall be promptly paid over to Corporation.

3. Partnership irrevocably grants to Corporation the right independently to pursue for the Corporation's own benefit, at the Corporation's cost and expense any and all rights and remedies granted or available to Partnership with respect to the Assigned Recoveries and Claims.

4. If in any calendar year, commencing with the calendar year 1971, Set-Offs are paid by Partnership and not otherwise recouped by the Partnership, the Partnership shall give notice of

DEFENDANTS' EXHIBIT Y, Item No. 4.

such fact to Corporation following the end of such year and Corporation shall, within fifteen (15) days of such notice, repay to Partnership an amount equal to such unrecouped Set-Offs; provided, however, that the aggregate of such repayments shall in no event exceed the aggregate net recoveries by Corporation with respect to the Assigned Recoveries and Claims.

IN WITNESS WHEREOF, Newburger, Loeb & Co. has executed this Assignment this 11th day of February 1971.

NEWBURGER, LOEB & CO.

By _____
General Partner

Robert L. [illegible]

[illegible] Newburger
General Partner

ACCEPTED:

NEWBURGER, LOEB & CO., INC.

By _____
Vice President

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

On the 11th day of February 1971 before me personally came Robert H. Newburger, Robert L. Skirn, to me known, who being by me duly sworn, did depose and say that they is a General Partners of Newburger, Loeb & Co., the partnership described in and which executed the foregoing assignment, and that they signed his names thereto by authority of said partnership.

_____
Notary Public

MICHAEL A. RAMBERGER
Notary Public, State of New York
No. 31-[illegible]
Qualified in New York County
Commission Expires March [illegible], 1972

DEFENDANTS' EXHIBIT Y, Item No. 4.

ACCEPTED, AGREED . .D CONSENTED TO:

E 473

For the 1967 Partnership

For the 1968 Partnership

For the 1969 Partnership

DEFENDANTS' EXHIBIT Y,
Item No. 5

E 474

CONSENT

Reference is hereby made to a certain Agreement (the "Agreement"), dated as of December 31, 1970, by and between Newburger, Loeb & Co., Inc. (the "Transferee"), a Delaware corporation, and Newburger, Loeb & Co. (the "Transferor"), a New York limited partnership.

Subject to the terms and conditions hereinafter set forth, each of the Transferor, Robert L. Newburger, Andrew M. Newburger, the Estate of Lester M. Newburger and the Estate of Morris Newburger, hereby consents to the use by the Transferee of the present name of the Transferor and of names substantially similar thereto which shall contain the name "Newburger"; provided, however, that each of the consents herein contained (1) shall be effective only if and when the transactions contemplated by the Agreement shall be consummated, (2) shall be applicable to the use of such names by the Transferee only in connection with the present business of the Transferee, (3) shall be of no further force and effect if the Transferee shall, for any reason, cease to carry on such business or change its name to any substantially dissimilar name and (4) is made for the benefit of the Transferee only, as presently constituted, and not any successor or assign

DEFENDANTS' EXHIBIT Y,
Item No. 5.

E 475

of the Transferee.

IN WITNESS WHEREOF, the undersigned have hereto set their hands as of the 11th day of February, 1971.

NEWBURGER, LOEB & CO.

By _____

_____
Robert L. Newburger

_____
Andrew M. Newburger

Estate of Morris Newburger
deceased
by _____
atty-in-fact

DEFENDANTS' EXHIBIT Y,
Item No. 5.

of the Transferee.

E 476

IN WITNESS WHEREOF, the undersigned have hereto set their hands as of the 11th day of February, 1971.

NEWBURGER, LOEB & CO.

By _____

_____
Robert L. Newburger

_____
Andrew M. Newburger

_____

_____

_____

_____

_____

_____

DEFENDANTS' EXHIBIT Y, Item No. 6.

E 477

AMENDED CERTIFICATE OF LIMITED PARTNERSHIP OF NEWBURGER, LOEB & CO.

THIS IS TO CERTIFY That the undersigned persons, being all of the members of the limited partnership of NEWBURGER, LOEB & CO., having signed and acknowledged this Certificate amending the certificates heretofore filed in the office of the Clerk of the County of New York, do hereby state that the Certificate of Limited Partnership, as amended, heretofore filed in the office of the Clerk of the County of New York is hereby further amended to reflect a change in the name of the limited partnership as follows:

The name of the Partnership is NS HOLDINGS & CO.

General Partners:

Edward R. Halle, by Laurence J. Berkowitz, atty in fact

William A. vanDoorn, by Laurence J. Berkowitz, atty in fact

Harold J. Richards, by Laurence Berkowitz, atty in fact

Edmund Rubin, by Laurence Berkowitz, his atty in fact

Leo Stern, by Burton Lehman, Attorney in Fact

Richard D. Stern, by Burton Lehman, attorney in Fact

DEFENDANTS' EXHIBIT Y.
Item No. 6.

E 478

Limited Partners:

Willard S Isle, by
Thomas C. Hopkins, Attorney-in-fact

ESTATE OF LESTER M. NEWBURGER
By Donald C. Cady - EXECUTOR

Estate of Morris Newburger, deceased
by Leona B. Lee, Executor

Joseph W. Durrie, by
David Abrams, Attorney-in-fact

GERALD FRANK, by
[signature], Attorney in fact

ESTATE OF LESTER M. NEWBURGER
by Archibald Newburger EXECUTOR + TRUSTEE

Jack Wachsler by [signature] Attorney-in-fact

Paul A. Bromberg by [signature] Attorney-in-fact

Philip Schulman by [signature] Attorney-in-fact

DEFENDANTS' EXHIBIT Y,
Item No. 6.

E 479

STATE OF NEW YORK)
: SS.:
COUNTY OFNEW YORK)

On the 11th day of February, 1971, before me personally came the partners of NEWBURGER, LOEB & CO., to me known and known to me, who executed the foregoing instrument and who duly acknowledged to me that they executed the same.

Michael A Bamberger

Notary Public

MICHAEL A. BAMBERGER
Notary Public, State of New York
No. 31-0166100
Qualified in New York County
Commission Expires March 30, 1973

DEFENDANTS' EXHIBIT Y, Item No. 7.

7

WAIVER

E 480

Reference is hereby made to a certain Agreement, dated as of December 31, 1970, by and between Newburger, Loeb & Co., Inc., a Delaware corporation, and Newburger, Loeb & Co. (the "Transferor"), a New York limited partnership.

The undersigned, constituting a majority in interest of the General Partners of the Transferor, do hereby waive all of the restrictions contained in the last sentence of paragraph 7.1(a) of Article VII of the Restated Articles of Limited Partnership of the Transferor as Amended, dated February 26, 1970, with respect to each of the persons named in Exhibit 1 annexed hereto.

IN WITNESS WHEREOF the undersigned have hereto set their hands as of the 11th day of February, 1971.

Leo Stern, by
Burton Lehman, Attorney in-Fact

Richard D. Stern, by
Burton Lehman, Attorney in Fact

DEFENDANTS' EXHIBIT Y, Item No. 7.

E 481

SCHEDULE - EXHIBIT 1

Edward R. Holt

Willard S. Irle (former limited partner)

Fred Kayne

William A. McGovern

Andrew M. Newburger

Robert L. Newburger

Benjamin F. Peyser

Harold J. Richards

Adolphus Roggenburg

Sanford Roggenburg

Edmund Rubin

John F. Settel

Charles S. Sloane

Richard D. Stern

Robert F. Therese

Robert L. Stern

Leo Stern

DEFENDANTS' EXHIBIT Y, Item No. 8.

E 481 A

Letter, Persky to Newburger Loeb, February 11, 1971
See, Plaintiff's Exhibit 43/

1/17/72

To all to whom these Presents shall come or may Concern,

E 482

DEFENDANTS' EXHIBIT Y, Item No. 9.

Greeting: KNOW YE, That

Jack Wachs

for and in consideration of the sum of One and 00/100 ($1.00) Dollar, and other good and valuable consideration in hand paid by

NEWBURGER, LOEB & CO., a New York limited partnership, and each of the persons listed on Schedule A attached hereto,

the receipt whereof is hereby acknowledged, have remised, released, and forever discharged and by these presents does for his heirs, executors, and administrators and assigns, remise, release and forever discharge the said Newburger, Loeb & Co., a New York limited partnership, and each of the persons listed on Schedule A attached hereto, their heirs, executors, administrators, successors and assigns of and from all, and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckoning, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims and demands whatsoever, in law, in admiralty, or in equity, which against Newburger, Loeb & Co., a New York limited partnership, and/or any and all of the persons listed on Schedule A attached hereto, he ever had, now has or which he or his heirs, executors, or administrators, hereafter can, shall or may have for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of the date of these presents. Provided, however, that the undersigned does not hereby release any claims the undersigned may have against any former or present general partner of said Newburger, Loeb & Co. for contribution or indemnification with respect to the claims of parties other than Newburger, Loeb & Co., and those persons listed on Schedule A attached hereto, either pursuant to the Partnership Law of the State of New York, pursuant to the agreement of limited partnership of said Newburger, Loeb & Co., as amended, or otherwise.

This release may not be changed orally.

In Witness Whereof, have hereunto set hand and seal the 11th day of February in the year one thousand nine hundred and seventy-one.

Sealed and delivered in the presence of

Jack Wachs L.S.

by Thomas Keefe
att-in-fact

DEFENDANTS' EXHIBIT Y, Item No. 9.

E 483

State of NY
of
County of NY
} ss.:

On the 11th day of February in the year one thousand nine hundred and 71 before me personally came

Robert Steefel

to me known, and known to me to be the individual described in, and who executed the foregoing instrument, and duly acknowledged to me that he executed the same.

Michael A Bamberger

MICHAEL A. BAMBERGER
Notary Public, State of New York
No. 31-5100100
Qualified in New York County
Commission Expires March 30, 1972

TO

General Release

DEFENDANTS' EXHIBIT Y,
Item No. 9.

SCHEDULE A

E 484

Andrew M. Newburger
Robert L. Newburger
Leo Stern
Robert L. Stern
Richard D. Stern
Edward R. Holt
William McGovern
Harold J. Richards
Sanford Roggenburg
Edward Rubin
Julius Schnall

Ella L. Newburger, Andrew M. Newburger, Robert L. Newburger, and Donald L. Newborg, as Executors of and Trustees under the Last Will and Testament of Lester M. Newburger, Deceased

May U. Newburger, and George B. Levy, as Executors of and Trustees under the Last Will and Testament of Morris Newburger, Deceased (a limited partner as of November 30, 1970)

Gerald N. Frank
Willard S. Irle
Jack Wachs
Saul A. Brown
Joseph W. Quarte
Philip Shulman
Ned Frank
Fred Kayne
Adolphus Roggenburg
John F. Settel
Charles Sloane

DEFENDANTS' EXHIBIT Y,
Item No. 9.

In addition to the document reproduced herein, Item #9 includes a series of identical general releases executed by the following persons:

Paul A. Brown
Philip Shulman
Joseph W. Quarte
Ella L. Newburger, Andrew M. Newburger, Robert L. Newburger, and Donald L. Newborg, as executors of and Trustees under the Last Will and Testament of Lester M. Newburger, deceased.
Robert L. Stern
Robert L. Newburger
Ned D. Frank
Julius Schnall
William H. McGovern
Edmund M. Rubin
Edward R. Holt
Harold J. Richards
John F. Settel
The Estate of Morris Newburger, deceased.
Sanford Roggenburg
Charles Sloane
Fred Kayne
Andrew M. Newburger
Adolphus Roggenburg
Gerald N. Frank
Leo Stern
Richard D. Stern

DEFENDANTS' EXHIBIT Y,
Item No. 10.

E 486

DEFENDANTS' EXHIBIT Y, Item No. 10.

ASSIGNMENT OF TAX REFUNDS

KNOW ALL MEN BY THESE PRESENTS,

THAT I, Robert L. Newburger for good and valuable consideration, receipt of which is hereby acknowledged, have sold and by these presents do grant, assign and convey unto NEWBURGER, LOEB & CO., a New York limited partnership, having its principal office at 5 Hanover Square, New York, New York 10004, any and all right, title and interest which I may now have, or to which I may hereafter become entitled, in and to all refunds of income taxes now or hereafter becoming due and payable to me by the governments of the United States, the State of New York and/or the City of New York, for the taxable years 1967, 1968 and 1969, to the extent hereinafter provided: 100% of all of such refunds not in excess of ($129,485.00) One hundred twenty nine thousand four hundred eighty five Dollars. For the purposes of the aforesaid computation, all amounts shall be net of reasonable attorneys' and accountants' fees and expenses reasonably incurred in connection with the recovery of said refunds.

TO HAVE AND TO HOLD the same unto the said NEWBURGER, LOEB & CO., its executors, administrators, successors and assigns forever, to and for the use of the said NEWBURGER, LOEB & CO., hereby constituting and irrevocably appointing Robert S. Persky, Esq., true and lawful attorney in my name, place and stead, for the purposes aforesaid, to ask, demand, sue for, attach, levy, recover and receive all such sum and sums of money which now are, or may hereafter become due, owing and payable for, or on account of all or any income tax, refunds or portions thereof herein assigned, giving and granting unto the said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary, as fully, to all intents and purposes, as I might or could do, if personally present, with full power of substitution to another member of the firm of Finley Kumble Underberg Persky & Roth, Esqs., hereby ratifying and confirming all that the said attorney or his substitute shall lawfully do, or cause to be done by virtue hereof.

DEFENDANTS' EXHIBIT Y, Item No. 10.

THIS ASSIGNMENT is made to secure the payment of a certain promissory note, dated the date hereof, of the undersigned to Newburger, Loeb & Co., Inc., a Delaware corporation, arising out of the deficit of the undersigned in his capital account with Newburger, Loeb & Co., a New York limited partnership. If and to the extent that the net amount of any such refund shall exceed the portion thereof herein assigned and/or shall exceed the amount of any due and unpaid principal of said promissory note, such excess shall be immediately paid to the undersigned without any set-off, counterclaim or deduction of whatsoever kind or nature.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the 11th day of February one thousand nine hundred and seventy-one.

The undersigned Ann L. Newburger joins in the security assignment but neither admits nor has any liability for the obligation which it secures

Signed, sealed and delivered in the presence of

Robert L. Newburger

Ann L. Newburger

STATE OF NEW YORK
COUNTY OF NEW YORK ss.:

On the 11th day of February, nineteen hundred and seventy-one before me came Robert L Newburger and Ann L Newburger to me known and known to me to be the individuals described in, and who executed, the foregoing instrument, and acknowledged to me that they executed the same.

Frances L. Allen

FRANCES L. ALLEN
Notary Public, State of New York
No. 41-0003150
Qualified in Queens County
Term Expires March 30, 1972

DEFENDANTS' EXHIBIT Y,
Item No. 10

E 488

DEFENDANTS' EXHIBIT Y, Item No. 10.

ASSIGNMENT OF TAX REFUNDS

KNOW ALL MEN BY THESE PRESENTS,

THAT I, Harold J. Richards & Miriam S. Richards for good and valuable consideration, receipt of which is hereby acknowledged, have sold and by these presents do grant, assign and convey unto NEWBURGER, LOEB & CO., a New York limited partnership, having its principal office at 5 Hanover Square, New York, New York 10004, any and all right, title and interest which I may now have, or to which I may hereafter become entitled, in and to all refunds of income taxes now or hereafter becoming due and payable to me by the governments of the United States, the State of New York and/or the City of New York, for the taxable years 1967, 1968 and 1969, to the extent hereinafter provided: 100% of all of such refunds not in excess of $48,350 *

For the purposes of the aforesaid computation, all amounts shall be net of reasonable attorneys' and accountants' fees and expenses reasonably incurred in connection with the recovery of said refunds.

TO HAVE AND TO HOLD the same unto the said NEWBURGER, LOEB & CO., its executors, administrators, successors and assigns forever, to and for the use of the said NEWBURGER, LOEB & CO., hereby constituting and irrevocably appointing Robert S. Persky, Esq., true and lawful attorney in my name, place and stead, for the purposes aforesaid, to ask, demand, sue for, attach, levy, recover and receive all such sum and sums of money which now are, or may hereafter become due, owing and payable for, or on account of all or any income tax, refunds or portions thereof herein assigned, giving and granting unto the said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary, as fully, to all intents and purposes, as I might or could do, if personally present, with full power of substitution to another member of the firm of Finley Kumble Underberg Persky & Roth, Esqs., hereby ratifying and confirming all that the said attorney or his substitute shall lawfully do, or cause to be done by virtue hereof.

* Subject to prior lien of The Chase Manhatten Bank,

DEFENDANTS' EXHIBIT Y,
Item No. 10.

E 489

THIS ASSIGNMENT is made to secure the payment of a certain promissory note, dated the date hereof, of the undersigned to Newburger, Loeb & Co., Inc., a Delaware corporation, arising out of the deficit of the undersigned in his capital account with Newburger, Loeb & Co., a New York limited partnership. If and to the extent that the net amount of any such refund shall exceed the portion thereof herein assigned and/or shall exceed the amount of any due and unpaid principal of said promissory note, such excess shall be immediately paid to the undersigned without any set-off, counterclaim or deduction of whatsoever kind or nature.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day of , one thousand nine hundred and seventy-one.

~~Signed, sealed and delivered in the presence of~~

Miriam S. Richards

Harold J. Richards

STATE OF NEW YORK
COUNTY OF NEW YORK ss.:

On the 11th day of February , nineteen hundred and seventy-one before me came Harold J. Richards and Miriam S. Richards to me known and known to me to be the individuals described in, and who executed, the foregoing instrument, and acknowledged to me that they executed the same.

Michael A. Bamberger

MICHAEL A. BAMBERGER
Notary Public, State of New York
No. 31-5166100
Qualified in New York County
Commission Expires March 30, 1972

DEFENDANTS' EXHIBIT Y,
Item No. 10.

E 490

ASSIGNMENT OF TAX REFUNDS

KNOW ALL MEN BY THESE PRESENTS,

THAT I, ANDREW M. NEWBURGER for good and valuable consideration, receipt of which is hereby acknowledged, have sold and by these presents do grant, assign and convey unto NEWBURGER, LOEB & CO., a New York limited partnership, having its principal office at 5 Hanover Square, New York, New York 10004, any and all right, title and interest which I may now have, or to which I may hereafter become entitled, in and to all refunds of income taxes now or hereafter becoming due and payable to me by the governments of the United States, the State of New York and/or the City of New York, for the taxable years 1967, 1968 and 1969, to the extent hereinafter provided:

100% of all of such refunds not in excess of $200,000.00,

50% of all of such refunds in excess of $200,000.00 and not in excess of $300,000.00,

75% of all of such refunds in excess of $300,000.00 and not in excess of $445,363.

For the purposes of the aforesaid computation, all amounts shall be net of reasonable attorneys' and accountants' fees and expenses reasonably incurred in connection with the recovery of said refunds.

TO HAVE AND TO HOLD the same unto the said NEWBURGER, LOEB & CO., its executors, administrators, successors and assigns forever, to and for the use of the said NEWBURGER, LOEB & CO., hereby constituting and irrevocably appointing Robert S. Persky, Esq., true and lawful attorney in my name, place and stead, for the purposes aforesaid, to ask, demand, sue for, attach, levy, recover and receive all such sum and sums of money which now are, or may hereafter become due, owing and payable for, or on account of all or any income tax, refunds or portions thereof herein assigned, giving and granting unto the said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary, as fully, to all intents and purposes, as I might or could do, if personally present, with full power of substitution to another member of the firm of Finley Kumble Underberg Persky & Roth, Esqs., hereby ratifying and confirming all that the said attorney or his substitute shall lawfully do, or cause to be done by virtue hereof.

DEFENDANTS' EXHIBIT Y, Item No. 10.

THIS ASSIGNMENT is made to secure the payment of a certain promissory note, dated the date hereof, of the undersigned to Newburger, Loeb & Co., Inc., a Delaware corporation, arising out of the deficit of the undersigned in his capital account with Newburger, Loeb & Co., a New York limited partnership. If and to the extent that the net amount of any such refund shall exceed the portion thereof herein assigned and/or shall exceed the amount of any due and unpaid principal of said promissory note, such excess shall be immediately paid to the undersigned without any set-off, counterclaim or deduction of whatsoever kind or nature.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the ~~Feb.~~ 11th day of February, one thousand nine hundred and seventy-one.

Signed, sealed and delivered in the presence of

Robert M. Newburger

STATE OF NEW YORK
COUNTY OF NEW YORK ss.:

On the 11th day of February, nineteen hundred and seventy-one before me came and to me known and known to me to be the individuals described in, and who executed, the foregoing instrument, and acknowledged to me that they executed the same.

Michael A. Bamberger

MICHAEL A. BAMBERGER
Notary Public, State of New York
No. 31-5106100
Qualified in New York County
Commission Expires March 30, 1972

DEFENDANTS' EXHIBIT Y,
Item No. 10.

E 492

ASSIGNMENT OF TAX REFUNDS

KNOW ALL MEN BY THESE PRESENTS,

THAT I, Shirley P. Newburger for good and valuable consideration, receipt of which is hereby acknowledged, have sold and by these presents do grant, assign and convey unto NEWBURGER, LOEB & CO., a New York limited partnership, having its principal office at 5 Hanover Square, New York, New York 10004, any and all right, title and interest which I may now have, or to which I may hereafter become entitled, in and to all refunds of income taxes now or hereafter becoming due and payable to me by the governments of the United States, the State of New York and/or the City of New York, for the taxable years 1967, 1968 and 1969, to the extent hereinafter provided:

100% of all of such refunds not in excess of $200,000.00,

50% of all of such refunds in excess of $200,000.00 and not in excess of $300,000.00,

75% of all of such refunds in excess of $300,000.00 and not in excess of $445,363.

For the purposes of the aforesaid computation, all amounts shall be net of reasonable attorneys' and accountants' fees and expenses reasonably incurred in connection with the recovery of said refunds.

TO HAVE AND TO HOLD the same unto the said NEWBURGER, LOEB & CO., its executors, administrators, successors and assigns forever, to and for the use of the said NEWBURGER, LOEB & CO., hereby constituting and irrevocably appointing Robert S. Persky, Esq., true and lawful attorney in my name, place and stead, for the purposes aforesaid, to ask, demand, sue for, attach, levy, recover and receive all such sum and sums of money which now are, or may hereafter become due, owing and payable for, or on account of all or any income tax refunds or portions thereof herein assigned, giving and granting unto the said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary, as fully, to all intents and purposes, as I might or could do, if personally present, with full power of substitution to another member of the firm of Finley Kumble Underberg Persky & Roth, Esqs., hereby ratifying and confirming all that the said attorney or his substitute shall lawfully do, or cause to be done by virtue hereof.

DEFENDANTS' EXHIBIT Y,
Item No. 10.

E 493

DEFENDANTS' EXHIBIT Y, Item No. 10.

THIS ASSIGNMENT is made to secure the payment of a certain promissory note, dated the date hereof, of the undersigned to Newburger, Loeb & Co., Inc., a Delaware corporation, arising out of the deficit of the undersigned in his capital account with Newburger, Loeb & Co., a New York limited partnership. If and to the extent that the net amount of any such refund shall exceed the portion thereof herein assigned and/or shall exceed the amount of any due and unpaid principal of said promissory note, such excess shall be immediately paid to the undersigned without any set-off, counterclaim or deduction of whatsoever kind or nature.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the 11th ~~1st~~ day of Feb. one thousand nine hundred and seventy-one.

Signed, sealed and delivered in the presence of

/s/ Shirley P. Newburger

/s/ Anthony Gagliano

STATE OF NEW YORK
COUNTY OF NEW YORK ss.:

On the 11th day of February nineteen hundred and seventy-one before me came Shirley P. Newburger and to me known and known to me to be the individuals described in, and who executed, the foregoing instrument, and acknowledged to me that they executed the same.

Anthony Gagliano

ANTHONY GAGLIANO
Notary Public, State of New York
No. 24-4356500
Qualified in Kings County
Commission Expires March 30, 1972

DEPENDANTS' EXHIBIT Y,
Item No. 10.

E - 494

DEFENDANTS' EXHIBIT Y, Item No. 10.

ASSIGNMENT OF TAX REFUNDS

KNOW ALL MEN BY THESE PRESENTS,

THAT I, ROBERT L. STERN.
for good and valuable consideration, receipt of which is hereby acknowledged, have sold and by these presents do grant, assign and convey unto NEWBURGER, LOEB & CO., a New York limited partnership, having its principal office at 5 Hanover Square, New York, New York 10004, any and all right, title and interest which I may now have, or to which I may hereafter become entitled, in and to all refunds of income taxes now or hereafter becoming due and payable to me by the governments of the United States, the State of New York and/or the City of New York, for the taxable years 1967, 1968 and 1969, to the extent hereinafter provided: 100% of all of such refunds not in excess of $ 293,430.00 .

For the purposes of the aforesaid computation, all amounts shall be net of reasonable attorneys' and accountants' fees and expenses reasonably incurred in connection with the recovery of said refunds.

TO HAVE AND TO HOLD the same unto the said NEWBURGER, LOEB & CO., its executors, administrators, successors and assigns forever, to and for the use of the said NEWBURGER, LOEB & CO., hereby constituting and irrevocably appointing Robert S. Persky, Esq., true and lawful attorney in my name, place and stead, for the purposes aforesaid, to ask, demand, sue for, attach, levy, recover and receive all such sum and sums of money which now are, or may hereafter become due, owing and payable for, or on account of all or any income tax, refunds or portions thereof herein assigned, giving and granting unto the said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary, as fully, to all intents and purposes, as I might or could do, if personally present, with full power of substitution to another member of the firm of Finley Kumble Underberg Persky & Roth, Esqs., hereby ratifying and confirming all that the said attorney or his substitute shall lawfully do, or cause to be done by virtue hereof.

DEFENDANTS' EXHIBIT Y,
Item No. 10.

E 495

DEFENDANTS' EXHIBIT Y, Item No. 10.

THIS ASSIGNMENT is made to secure the payment of a certain promissory note, dated the date hereof, of the undersigned to Newburger, Loeb & Co., Inc., a Delaware corporation, arising out of the deficit of the undersigned in his capital account with Newburger, Loeb & Co., a New York limited partnership. If and to the extent that the net amount of any such refund shall exceed the portion thereof herein assigned and/or shall exceed the amount of any due and unpaid principal of said promissory note, such excess shall be immediately paid to the undersigned without any set-off, counterclaim or deduction of whatsoever kind or nature.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the 11th day of February one thousand nine hundred and seventy-one.

Signed, sealed and delivered in the presence of Robert L. Stern

STATE OF NEW YORK
COUNTY OF NEW YORK ss.:

On the 11th day of February, nineteen hundred and seventy-one before me came Robert L. Stern and to me known and known to me to be the individuals described in, and who executed, the foregoing instrument, and acknowledged to me that they executed the same.

Michael A. Bamberger

MICHAEL A. BAMBERGER
Notary Public, State of New York
No. 31-0103100
Qualified in New York County
Commission Expires March 30, 1972

DEFENDANTS' EXHIBIT Y,
Item No. 10.

E 496

DEFENDANTS' EXHIBIT Y, Item No. 10.
ASSIGNMENT OF TAX REFUNDS

KNOW ALL MEN BY THESE PRESENTS,

THAT I, Ellen D Stern for good and valuable consideration, receipt of which is hereby acknowledged, have sold and by these presents do grant, assign and convey unto NEWBURGER, LOEB & CO., a New York limited partnership, having its principal office at 5 Hanover Square, New York, New York 10004, any and all right, title and interest which I may now have, or to which I may hereafter become entitled, in and to all refunds of income taxes now or hereafter becoming due and payable to me by the governments of the United States, the State of New York and/or the City of New York, for the taxable years 1967, 1968 and 1969, to the extent hereinafter provided: 100% of all of such refunds not in excess of $ 193,730.00.

For the purposes of the aforesaid computation, all amounts shall be net of reasonable attorneys' and accountants' fees and expenses reasonably incurred in connection with the recovery of said refunds.

TO HAVE AND TO HOLD the same unto the said NEWBURGER, LOEB & CO., its executors, administrators, successors and assigns forever, to and for the use of the said NEWBURGER, LOEB & CO., hereby constituting and irrevocably appointing Robert S. Persky, Esq., true and lawful attorney in my name, place and stead, for the purposes aforesaid, to ask, demand, sue for, attach, levy, recover and receive all such sum and sums of money which now are, or may hereafter become due, owing and payable for, or on account of all or any income tax, refunds or portions thereof herein assigned, giving and granting unto the said attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary, as fully, to all intents and purposes, as I might or could do, if personally present, with full power of substitution to another member of the firm of Finley Kumble Underberg Persky & Roth, Esqs., hereby ratifying and confirming all that the said attorney or his substitute shall lawfully do, or cause to be done by virtue hereof.

DEFENDANTS' EXHIBIT Y,
Item No. 10.

E 497

DEFENDANTS' EXHIBIT Y, Item No. 10.

THIS ASSIGNMENT is made to secure the payment of a certain promissory note, dated the date hereof, of the undersigned to Newburger, Loeb & Co., Inc., a Delaware corporation, arising out of the deficit of the undersigned in his capital account with Newburger, Loeb & Co., a New York limited partnership. If and to the extent that the net amount of any such refund shall exceed the portion thereof herein assigned and/or shall exceed the amount of any due and unpaid principal of said promissory note, such excess shall be immediately paid to the undersigned without any set-off, counterclaim or deduction of whatsoever kind or nature.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the 12 day of February, one thousand nine hundred and seventy-one.

Signed, sealed and delivered in the presence of

Elliot D. Stern

STATE OF NEW YORK
COUNTY OF NEW YORK ss.:

On the 12th day of February, nineteen hundred and seventy-one before me came Elliot D. Stern ~~and~~ _____ to me known and known to me to be the individuals described in, and who executed, the foregoing instrument, and acknowledged to me that they executed the same.

Frances L. Arlen

FRANCES L. ARLEN
Notary Public, State of New York
No. 41-0093150
Qualified in Queens County
Term Expires March 30, 1972

DEFENDANTS' EXHIBIT Y,
Item No. 11.

11

E 498

The undersigned hereby appoint ROBERT S. PERSKY, ESQ., as attorney-in-fact solely to endorse checks in payment of any refund to the undersigned of Internal Revenue taxes, penalties and interest for the years 1967, 1968 and 1969 in accordance with, and subject to, an assignment of tax refunds to Newburger, Loeb & Co. of even date.

New York, N.Y., February 11, 1971.

Robert L. Stern

Ellen D. Stern

STATE OF NEW YORK
COUNTY OF NEW YORK ss.:

On the 11th day of February, 1971, before me came Robert L. Stern and Ellen D. Stern to me known and known to me to be the individuals described in, and who executed, the foregoing instrument, and acknowledged to me that they executed the same.

Frances L. Arlen

FRANCES L. ARLEN
Notary Public, State of New York
No. 41-0093150
Qualified in Queens County
Term Expires March 30, 19 71

DEFENDANTS' EXHIBIT Y, Item No. 11

FORM 2848-A
(Rev. Mar. 1965)

U.S. Treasury Department—Internal Revenue Service

LIMITED POWER OF ATTORNEY

E 499

(IMPORTANT—Please read instructions on reverse before completing this form)

Name, address, and identifying number(s) of principal(s)
ROBERT L. STERN 092-20-9481 + ELLEN D. STERN 028-28-9773
5 HANOVER SQUARE
NEW YORK, NY. 10004

hereby appoint(s) (Name, address, and identifying number(s) of appointee(s))
Robert S. Persky (010-26-1275)
477 Madison Avenue
New York, New York 10022

as attorney(s)-in-fact to represent the principal(s) before any office of the Internal Revenue Service with respect to (specify Internal Revenue tax matter(s) and year(s) or period(s))

Refund claims on income taxes paid for the years 1967, 1968, 1969

Said attorney(s)-in-fact shall, subject to revocation, have full power to perform on behalf of the principal(s) the following act or acts:

To receive and collect checks in payment
of any refund of Internal Revenue taxes, penalties and interest.

Copies of correspondence addressed to the taxpayer in proceedings involving the above matter(s) should be sent to:
(Name) DANIEL R. KAPLAN, ESQ.
(Address) TENZER, GREENBLATT FALLON + KAPLAN, 235 E. 42ST, NEW YORK, N.Y. 10017

One or more prior powers of attorney relating to the same matters and same year(s) or period(s) (are) (are not) in effect in the office where this power of attorney is filed. This power of attorney (revokes) (does not revoke) the prior power(s) of attorney. (SEE SECOND PARAGRAPH OF GENERAL INSTRUCTIONS ON REVERSE AS TO REQUIREMENT REGARDING PRIOR POWERS OF ATTORNEY.)

SIGNATURE IF PRINCIPAL IS INDIVIDUAL OR HUSBAND AND WIFE

Signature of Principal	Date	Signature of Principal	Date
Robert L. Stern	2/11/71	Ellen D Stern	2/11/71

SIGNATURE IF PRINCIPAL IS PARTNERSHIP, ESTATE, CORPORATION, ETC.

Under penalties of perjury, I declare that I have the authority to execute this power of attorney on behalf of the principal.

Signature for Principal	Title	Date
Signature for Principal	Title	Date

CORPORATE SEAL
(If applicable)

NOTARIZATION

The above-named person(s) signing as or for the principal(s) appeared this day before me and acknowledged this power of attorney as his/her/their voluntary act and deed.

NOTARIAL SEAL (If required)

Signature of Notary: Frances L. Ahlen
Date: 2/11/71

FRANCES L. AHLEN
Notary Public, State of New York
No. 41-0993150
Qualified in Queens County
Term Expires March 30, 19[illegible]

OR

WITNESSING

This power of attorney was signed by or for the principal(s) by a person or persons known to, and in the presence of, the two disinterested witnesses whose signatures appear below:

Signature of Witness	Date
Signature of Witness	Date

CERTIFICATION BY ENROLLED ATTORNEY OR AGENT IN LIEU OF WITNESSING OR NOTARIZATION

I certify that I am in good standing and enrolled to practice before the Internal Revenue Service and that if the person(s) who signed above is not the principal, to the best of my knowledge and belief, he has the authority to execute this power of attorney for the principal.

Signature of Attorney-in-Fact	Enrollment Card Number (if any)	Expiration Date on Card

FORM 2848-A (Rev. 3-65)

DEFENDANTS' EXHIBIT Y,
Item No. 11.

E 500

The undersigned hereby appoint ROBERT S. PERSKY, ESQ., as attorney-in-fact solely to endorse checks in payment of any refund to the undersigned of Internal Revenue taxes, penalties and interest for the years 1967, 1968 and 1969 in accordance with, and subject to, an assignment of tax refunds to Newburger, Loeb & Co. of even date.

New York, N.Y., February 11, 1971.

Robert L. Newburger

Ann L. Newburger

STATE OF NEW YORK
COUNTY OF NEW YORK ss.:

On the 11th day of February, 1971, before me came Robert L. Newburger and Ann L. Newburger to me known and known to me to be the individuals described in, and who executed, the foregoing instrument, and acknowledged to me that they executed the same.

Frances L. Arlen

FRANCES L. ARLEN
Notary Public, State of New York
No. 41-0093150
Qualified in Queens County
Term Expires March 30, 1974

DEFENDANTS' EXHIBIT Y, Item No. 11.

FORM 2848-A
(Rev. Mar. 1963)

U.S. Treasury Department—Internal Revenue Service

LIMITED POWER OF ATTORNEY

(IMPORTANT—Please read instructions on reverse before completing this form)

E 501

*Name, address, and identifying number(s) of principal(s)
ROBERT L. NEWBURGER and
ANN L NEWBURGER
29 E 64th St, New York, N.Y.

hereby appoint(s) (Name, address, and identifying number(s) of appointee(s))
Robert S. Persky (010-26-1275)
477 Madison Avenue
New York, New York 10022

as attorney(s)-in-fact to represent the principal(s) before any office of the Internal Revenue Service with respect to (specify Internal Revenue tax matter(s) and year(s) or period(s))

Refund claims on income taxes paid for the years 1967, 1968, 1969

Said attorney(s)-in-fact shall, subject to revocation, have full power to perform on behalf of the principal(s) the following act or acts:

To receive and collect checks in payment of any refund of Internal Revenue taxes, penalties and interest.

Copies of correspondence addressed to the taxpayer in proceedings involving the above matter(s) should be sent to:
(Name) ALLEN ISHAKSON, ESQ.
(Address) 120 BROADWAY, RM 2650, NEW YORK, N.Y.

One or more prior powers of attorney relating to the same matters and same year(s) or period(s) (are) (are not) in effect in the office where this power of attorney is filed. This power of attorney (revokes) (does not revoke) the prior power(s) of attorney. (SEE SECOND PARAGRAPH OF GENERAL INSTRUCTIONS ON REVERSE AS TO REQUIREMENT REGARDING PRIOR POWERS OF ATTORNEY.)

SIGNATURE IF PRINCIPAL IS INDIVIDUAL OR HUSBAND AND WIFE

Signature of Principal	Date	Signature of Principal	Date
Ann L Newburger	2/12/71	Robert L Newburger	2/11/71

SIGNATURE IF PRINCIPAL IS PARTNERSHIP, ESTATE, CORPORATION, ETC.

Under penalties of perjury, I declare that I have the authority to execute this power of attorney on behalf of the principal.

Signature for Principal	Title	Date
Signature for Principal	Title	Date

CORPORATE SEAL (If applicable)

NOTARIZATION

The above-named person(s) signing as or for the principal(s) appeared this day before me and acknowledged this power of attorney as his/her/their voluntary act and deed.

NOTARIAL SEAL (If required)

Signature of Notary: Frances L Allen
Date: 2/11/71 + 2/12/71

FRANCES L. ALLEN
Notary Public, State of New York
No. 41-0093150
Qualified in Queens County
Term Expires March 30, 1972

OR

WITNESSING

This power of attorney was signed by or for the principal(s) by a person or persons known to, and in the presence of, the two disinterested witnesses whose signatures appear below:

Signature of Witness	Date
Signature of Witness	Date

CERTIFICATION BY ENROLLED ATTORNEY OR AGENT IN LIEU OF WITNESSING OR NOTARIZATION

I certify that I am in good standing and enrolled to practice before the Internal Revenue Service and that if the person(s) who signed above is not the principal, to the best of my knowledge and belief, he has the authority to execute this power of attorney for the principal.

Signature of Attorney-in-Fact	Enrollment Card Number (if any)	Expiration Date on Card

FORM 2848-A (Rev. 3-63)

DEFENDANTS' EXHIBIT Y,
Item No. 11.

E 502

The undersigned hereby appoint ROBERT S. PERSKY, ESQ., as attorney-in-fact solely to endorse checks in payment of any refund to the undersigned of Interral Revenue taxes, penalties and interest for the years 1967, 1968 and 1969 in accordance with, and subject to, an assignment of tax refunds to Newburger, Loeb & Co. of even date.

New York, N.Y., February 11, 1971.

/s/ Shirley P. Newburger

STATE OF NEW YORK
COUNTY OF NEW YORK ss.:

On the 11th day of February, 1971, before me came Shirley P. Newburger and to me known and known to me to be the individuals described in, and who executed, the foregoing instrument, and acknowledged to me that they executed the same.

Anthony Gaglianc

ANTHONY GAGLIANC
Notary Public, State of New York
No. 24-1356500
Qualified in Kings County
Commission Expires March 30, 1971

DEFENDANTS' EXHIBIT Y,
Item No. 11.

E 503

The undersigned hereby appoint ROBERT S. PERSKY, ESQ., as attorney-in-fact solely to endorse checks in payment of any refund to the undersigned of Internal Revenue taxes, penalties and interest for the years 1967, 1968 and 1969 in accordance with, and subject to, an assignment of tax refunds to Newburger, Loeb & Co. of even date.

New York, N.Y., February 11, 1971.

Andrew M. Newburger

STATE OF NEW YORK
COUNTY OF NEW YORK ss.:

On the 11th day of February, 1971, before me came Andrew M. Newburger and to me known and known to me to be the individuals described in, and who executed, the foregoing instrument, and acknowledged to me that they executed the same.

Michael A. Bamberger

MICHAEL A. BAMBERGER
Notary Public, State of New York
No. 31-5106100
Qualified in New York County
Commission Expires March 30, 1972

DEFENDANTS' EXHIBIT Y, Item No. 11.

FORM 2848-A
(Rev. Mar. 1965)

U.S. Treasury Department—Internal Revenue Service

LIMITED POWER OF ATTORNEY

E 504

(IMPORTANT—Please read instructions on reverse before completing this form)

Name, address, and identifying number(s) of principal(s)

Harold J. Richards + Miriam S. Richards

hereby appoint(s) (Name, address, and identifying number(s) of appointee(s);

Robert S. Persky (010-26-1275)
477 Madison Avenue
New York, New York 10022

as attorney(s)-in-fact to represent the principal(s) before any office of the Internal Revenue Service with respect to (specify Internal Revenue tax matter(s) and year(s) or period(s))

Refund claims on income taxes paid for the years 1967, 1968, 1969

Said attorney(s)-in-fact shall, subject to revocation, have full power to perform on behalf of the principal(s) the following act or acts:

To receive and collect checks in payment of any refund of Internal Revenue taxes, penalties and interest. (Subject to prior lien of The Chase Manhattan Bank.)

Copies of correspondence addressed to the taxpayer in proceedings involving the above matter(s) should be sent to:

(Name)

(Address)

One or more prior powers of attorney relating to the same matters and same year(s) or period(s) (are) (are not) in effect in the office where this power of attorney is filed. This power of attorney (revokes) (does not revoke) the prior power(s) of attorney. (SEE SECOND PARAGRAPH OF GENERAL INSTRUCTIONS ON REVERSE AS TO REQUIREMENT REGARDING PRIOR POWERS OF ATTORNEY.)

SIGNATURE IF PRINCIPAL IS INDIVIDUAL OR HUSBAND AND WIFE

Signature of Principal	Date	Signature of Principal	Date
Harold J. Richards		Miriam S. Richards	

SIGNATURE IF PRINCIPAL IS PARTNERSHIP, ESTATE, CORPORATION, ETC.

Under penalties of perjury, I declare that I have the authority to execute this power of attorney on behalf of the principal.

Signature for Principal	Title	Date
Signature for Principal	Title	Date

CORPORATE SEAL
(If applicable)

NOTARIZATION OR WITNESSING

The above-named person(s) signing as or for the principal(s) appeared this day before me and acknowledged this power of attorney as his/her/their voluntary act and deed.

NOTARIAL SEAL (If required)

Signature of Notary: Richard A. Rawlings
Date: 2/11/71

This power of attorney was signed by or for the principal(s) by a person or persons known to, and in the presence of, the two disinterested witnesses whose signatures appear below:

Signature of Witness	Date
Signature of Witness	Date

RICHARD A. RAWLINGS
Notary Public, State of New York
No. 31-5165100
Qualified in New York County
Commission Expires March 30, 1972

CERTIFICATION BY ENROLLED ATTORNEY OR AGENT IN LIEU OF WITNESSING OR NOTARIZATION

I certify that I am in good standing and enrolled to practice before the Internal Revenue Service and that if the person(s) who signed above is not the principal, to the best of my knowledge and belief, he has the authority to execute this power of attorney for the principal.

Signature of Attorney-In-Fact	Enrollment Card Number (if any)	Expiration Date on Card

FORM 2848-A (Rev. 3-65)

DEFENDANTS' EXHIBIT Y, Item No. 11.

FORM 2848-A
(Rev. Mar. 1965)

U.S. Treasury Department—Internal Revenue Service

LIMITED POWER OF ATTORNEY

E 505

(IMPORTANT—Please read instructions on reverse before completing this form)

*Name, address, and identifying number(s) of principal(s)

hereby appoint(s) (Name, address, and identifying number(s) of appointee(s))

Robert S. Persky (010-26-1275)
477 Madison Avenue
New York, New York 10022

as attorney(s)-in-fact to represent the principal(s) before any office of the Internal Revenue Service with respect to (specify Internal Revenue tax matter(s) and year(s) or period(s))

Refund claims on income taxes paid for the years 1967, 1968, 1969

Said attorney(s)-in-fact shall, subject to revocation, have full power to perform on behalf of the principal(s) the following act or acts:

To receive and collect checks in payment
of any refund of Internal Revenue taxes, penalties and interest.

Copies of correspondence addressed to the taxpayer in proceedings involving the above matter(s) should be sent to:

(Name)

(Address)

One or more prior powers of attorney relating to the same matters and same year(s) or period(s) (are) (are not) in effect in the office where this power of attorney is filed. This power of attorney (revokes) (does not revoke) the prior power(s) of attorney. (SEE SECOND PARAGRAPH OF GENERAL INSTRUCTIONS ON REVERSE AS TO REQUIREMENT REGARDING PRIOR POWERS OF ATTORNEY.)

SIGNATURE IF PRINCIPAL IS INDIVIDUAL OR HUSBAND AND WIFE

Signature of Principal	Date	Signature of Principal	Date
SN Shirley P. Newburger	2/11/71		

SIGNATURE IF PRINCIPAL IS PARTNERSHIP, ESTATE, CORPORATION, ETC.

Under penalties of perjury, I declare that I have the authority to execute this power of attorney on behalf of the principal.

Signature for Principal	Title	Date
Signature for Principal	Title	Date

CORPORATE SEAL
(If applicable)

NOTARIZATION	OR	WITNESSING
The above-named person(s) signing as or for the principal(s) appeared this day before me and acknowledged this power of attorney as his/her/their voluntary act and deed.		This power of attorney was signed by or for the principal(s) by a person or persons known to, and in the presence of, the two disinterested witnesses whose signatures appear below:
NOTARIAL SEAL (If required) Signature of Notary: Anthony Gaglione Date: February 11, 1971		Signature of Witness / Date Signature of Witness / Date

ANTHONY GAGLIONE
Notary Public, State of New York
No. 24-4355510
Qualified in Kings County
Commission Expires March 30, 1971

CERTIFICATION BY ENROLLED ATTORNEY OR AGENT IN LIEU OF WITNESSING OR NOTARIZATION

I certify that I am in good standing and enrolled to practice before the Internal Revenue Service and that if the person(s) who signed above is not the principal(s) to the best of my knowledge and belief, he has the authority to execute this power of attorney for the principal.

Signature of Attorney-In-Fact	Enrollment Card Number (if any)	Expiration Date on Card

FORM 2848-A (Rev. 3-65)

DEFENDANTS' EXHIBIT Y, Item No. 11

FORM 2848-A
(Rev. Mar. 1965)

U.S. Treasury Department—Internal Revenue Service

LIMITED POWER OF ATTORNEY

(IMPORTANT—Please read instructions on reverse before completing this form)

E 506

Name, address, and identifying number(s) of principal(s)

ANDREW M. & SHIRLEY K. NEWBURGER,
5 HANOVER SQUARE, NEW YORK, N.Y.

hereby appoint(s) (Name, address, and identifying number(s) of appointee(s))

Robert S. Persky (010-26-1275)
477 Madison Avenue
New York, New York 10022

as attorney(s)-in-fact to represent the principal(s) before any office of the Internal Revenue Service with respect to (specify Internal Revenue tax matter(s) and year(s) or period(s))

Refund claims on income taxes paid for the years 1967, 1968, 1969

Said attorney(s)-in-fact shall, subject to revocation, have full power to perform on behalf of the principal(s) the following act or acts:

To receive and collect checks in payment
of any refund of Internal Revenue taxes, penalties and interest.

Copies of correspondence addressed to the taxpayer in proceedings involving the above matter(s) should be sent to:

(Name)

(Address)

One or more prior powers of attorney relating to the same matters and same year(s) or period(s) (are) (are not) in effect in the office where this power of attorney is filed. This power of attorney (revokes) (does not revoke) the prior power(s) of attorney. (SEE SECOND PARAGRAPH OF GENERAL INSTRUCTIONS ON REVERSE AS TO REQUIREMENT REGARDING PRIOR POWERS OF ATTORNEY.)

SIGNATURE IF PRINCIPAL IS INDIVIDUAL OR HUSBAND AND WIFE

Signature of Principal	Date	Signature of Principal	Date
Andrew M. Newburger	2/11/71		

SIGNATURE IF PRINCIPAL IS PARTNERSHIP, ESTATE, CORPORATION, ETC.

Under penalties of perjury, I declare that I have the authority to execute this power of attorney on behalf of the principal.

Signature for Principal	Title	Date
Signature for Principal	Title	Date

CORPORATE SEAL
(If applicable)

NOTARIZATION

The above-named person(s) signing as or for the principal(s) appeared this day before me and acknowledged this power of attorney as his/her/their voluntary act and deed.

NOTARIAL SEAL
(If required)

Signature of Notary: Michael A. Ramberger
Date: 2/11/71

OR

WITNESSING

This power of attorney was signed by or for the principal(s) by a person or persons known to, and in the presence of, the two disinterested witnesses whose signatures appear below:

Signature of Witness	Date
Signature of Witness	Date

MICHAEL A. RAMBERGER
Notary Public, State of New York
No. 31-5166100
Qualified in New York County
Commission Expires March 30, 1972

CERTIFICATION BY ENROLLED ATTORNEY OR AGENT IN LIEU OF WITNESSING OR NOTARIZATION

I certify that I am in good standing and enrolled to practice before the Internal Revenue Service and that if the person(s) who signed above is not the principal, to the best of my knowledge and belief, he has the authority to execute this power of attorney for the principal.

Signature of Attorney-in-Fact	Enrollment Card Number (if any)	Expiration Date on Card

FORM 2848-A (Rev. 3-65)

DEFENDANTS' EXHIBIT Y,
Item No. 11.

E 507

The undersigned hereby appoint ROBERT S. PERSKY, ESQ., as attorney-in-fact solely to endorse checks in payment of any refund to the undersigned of [illegible]nal Revenue taxes, penalties and interest for the years 1967, 1968 and 1969 in accordance with, and subject to, an assignment of tax refunds to Newburger, Loeb & Co. of even date.*

New York, N.Y., February 11, 1971.

Harold J. Richards

Miriam S. Richards

* Subject to prior lien of The Chase Manhattan Bank.

STATE OF NEW YORK
COUNTY OF NEW YORK ss.:

On the 11th day of February, 1971, before me came Harold J. Richards and Miriam S. Richards to me known and known to me to be the individuals described in, and who executed, the foregoing instrument, and acknowledged to me that they executed the same.

Michael A. Bamberger

MICHAEL A. BAMBERGER
Notary Public, State of New York
No. 31-5156100
Qualified in New York County
Commission Expires March 30, 1972

DEFENDANTS' EXHIBIT Y,
Item No. 11.

E 508

TO: Robert L. and Ann L. Newburger

The undersigned, the Attorney-in-Fact in connection with the assignment of certain tax refunds by you in connection with the Promissory Note in the amount of $129,485 (the "Refund Amount") delivered by you today to Newburger, Loeb & Co., Inc. hereby agrees that any such tax refunds in excess of the Refund Amount plus reasonable accountants' and attorneys' fees in connection therewith shall be immediately paid over to you.

Dated: February 11, 1971

Robert S. Persky

DEFENDANTS' EXHIBIT Y,
Item No. 11.

E 509

The undersigned hereby consents to the appointment of such individual designated by Robert L. and Ann L. Newburger ("Newburger") as the Attorney-in-Fact in connection with the assignment of certain tax refunds by Newburger to Newburger, Loeb & Co. in substitution for Robert S. Persky, provided that such individual shall be acceptable to the undersigned. If the undersigned and Newburger shall fail to agree upon such individual within forty-five days after the date hereof, the undersigned consents to the appointment of such individual designated by the President of the Association of the Bar of the City of New York or any committee thereof.

Dated: February 11, 1971

NEWBURGER, LOEB & CO., INC.

By Paul D. Risher
Paul D. Risher

DEFENDANTS' EXHIBIT Y,
Item No. 11.

E 510

TO: Robert L. and Ellen D. Stern

The undersigned, the Attorney-in-Fact in connection with the assignment of certain tax refunds by you in connection with the Promissory Note in the amount of $ 573,430 (the "Refund Amount") delivered by you today to Newburger, Loeb & Co., Inc. hereby agrees that any such tax refunds in excess of the Refund Amount, shall be immediately paid over to you, plus reasonable accountants and attorneys' fees in connection therewith.

Dated: February 11, 1971

Robert S. Persky

DEFENDANTS' EXHIBIT Y,
Item No. 11.

E 511

The undersigned hereby consents to the appointment of such individual designated by Robert L. and Ellen D. Stern ("Stern") as the Attorney-in-Fact in connection with the assignment of certain tax refunds by Stern to Newburger, Loeb & Co. in substitution for Robert S. Persky, provided that such individual shall be acceptable to the undersigned. If the undersigned and Stern shall fail to agree upon such individual within forty-five days after the date hereof, the undersigned consents to the appointment of such individual designated by the President of the Association of the Bar of the City of New York or any committee thereof

Dated: February 11, 1971

NEWBURGER, LOEB & CO., INC.

By Paul D. Risher
Paul D. Risher

DEFENDANTS' EXHIBIT Y, Item No. 12.

12

PROMISSORY NOTE

E 512

New York, New York
February 11, 1971

$ 129,485.00

FOR VALUE RECEIVED, the undersigned promises to pay to Newburger, Loeb & Co., Inc., at 5 Hanover Square, New York, New York, in lawful money of the United States, the principal sum of $ 129,485.00 , without interest. Principal shall be due and payable as and to the extent that the refunds set forth below are received, and, to the extent received, shall be applied in reduction of the then outstanding principal balance hereof; in any event, the full principal amount shall be due and payable no later than February 10, 1974.

This Note is secured by and is subject to the terms and conditions of a certain assignment, dated the date hereof, by the undersigned to Newburger, Loeb & Co., a New York limited partnership, of specified portions of all refunds of income taxes, now or hereafter becoming due and payable to him by the governments of the United States, the State of New York and/or the City of New York for the taxable years 1967, 1968 and 1969.

The undersigned hereby waives presentment, demand, protest, notice of protest or other notice of dishonor of any kind, and agrees to pay all reasonable costs of collection, including reasonable attorneys' fees, which may be incurred in the collection of this Note or any portion thereof.

Robert Newburger

DEFENDANTS' EXHIBIT Y,
Item No. 12.

PROMISSORY NOTE

E 513

New York, New York
February 11, 1971

$359,022.00

FOR VALUE RECEIVED, the undersigned promises to pay to Newburger, Loeb & Co., Inc., at 5 Hanover Square, New York, New York, in lawful money of the United States, the principal sum of $359,022.00, without interest. Principal shall be due and payable as and to the extent that the portions of the refunds assigned by the undersigned pursuant to the assignment referred to below are received, and, to the extent received, shall be applied in reduction of the then outstanding principal balance hereof; in any event, the full principal amount shall be due and payable no later than February 10, 1974.

This Note is secured by and is subject to the terms and conditions of a certain assignment, dated the date hereof, by the undersigned to Newburger, Loeb & Co., a New York limited partnership, of specified portions of all refunds of income taxes, now or hereafter becoming due and payable to him by the governments of the United States, the State of New York and/or the City of New York for the taxable years 1967, 1968 and 1969.

The undersigned hereby waives presentment, demand, protest, notice of protest or other notice of dishonor of any kind, and agrees to pay all reasonable costs of collection, including reasonable attorneys' fees, which may be incurred in the collection of this Note or any portion thereof.

Andrew Newburger

DEFENDANTS' EXHIBIT Y, Item No. 12.

PROMISSORY NOTE

E 514

New York, New York
February 11, 1971

$ 293,430.00

FOR VALUE RECEIVED, the undersigned promises to pay to Newburger, Loeb & Co., Inc., at 5 Hanover Square, New York, New York, in lawful money of the United States, the principal sum of $ 293,430.00 , without interest. Principal shall be due and payable as and to the extent that the refunds set forth below are received, and, to the extent received, shall be applied in reduction of the then outstanding principal balance hereof; in any event, the full principal amount shall be due and payable no later than February 10, 1974.

This Note is secured by and is subject to the terms and conditions of a certain assignment, dated the date hereof, by the undersigned to Newburger, Loeb & Co., a New York limited partnership, of specified portions of all refunds of income taxes, now or hereafter becoming due and payable to him by the governments of the United States, the State of New York and/or the City of New York for the taxable years 1967, 1968 and 1969.

The undersigned hereby waives presentment, demand, protest, notice of protest or other notice of dishonor of any kind, and agrees to pay all reasonable costs of collection, including reasonable attorneys' fees, which may be incurred in the collection of this Note or any portion thereof.

Robert L. Stern

DEFENDANTS' EXHIBIT Y, Item No. 12.

PROMISSORY NOTE

515

New York, New York
February 11, 1971

$ 48,350.00

FOR VALUE RECEIVED, the undersigned promises to pay to Newburger, Loeb & Co., Inc., at 5 Hanover Square, New York, New York, in lawful money of the United States, the principal sum of $ 48,350.00 , without interest. Principal shall be due and payable as and to the extent that the refunds set forth below are received, and, to the extent received, shall be applied in reduction of the then outstanding principal balance hereof; in any event, the full principal amount shall be due and payable no later than February 10, 1974.

This Note is secured by and is subject to the terms and conditions of a certain assignment, dated the date hereof, by the undersigned to Newburger, Loeb & Co., a New York limited partnership, of specified portions of all refunds of income taxes, now or hereafter becoming due and payable to him by the governments of the United States, the State of New York and/or the City of New York for the taxable years 1967, 1968 and 1969.

The undersigned hereby waives presentment, demand, protest, notice of protest or other notice of dishonor of any kind, and agrees to pay all reasonable costs of collection, including reasonable attorneys' fees which may be incurred in the collection of this Note or any portion thereof.

Harold J. Richards

DEFENDANTS' EXHIBIT Y,
Item No. 12.

E 516

PROMISSORY NOTE

$59,375.00

New York, New York
February 11, 1971

FOR VALUE RECEIVED, the undersigned promises to pay to Newburger, Loeb & Co., Inc., at 5 Hanover Square, New York, New York, in lawful money of the United States, the principal sum of $59,375.00 , without interest. Principal shall be due and payable on February 10, 1974.

The Undersigned hereby waives presentment, demand, protest, notice of protest or other notice of dishonor of any kind, and agrees to pay all reasonable costs of collection, including reasonable attorneys' fees, which may be incurred in the collection of this Note or any portion thereof.

John F. Settel

John F. Settel

DEFENDANTS' EXHIBIT Y,
Item No. 13.

General Powers of Attorney

POWER OF ATTORNEY

E 517

In order to represent the undersigned in connection with the transfer of the assets of Newburger, Loeb & Co. to Newburger, Loeb & Co., Inc., the undersigned does hereby appoint Thomas A. Hopkins, P.B. Konrad Knake and White & Case or representative (hereinafter collectively called the "Attorneys"), and each of them severally, with full power in each to act without the other, and with full power of substitution and resubstitution, for and on behalf of the undersigned in any and all capacities and to the same extent as the undersigned personally could do, to deliver such documents as may be required at the Closing referred to in an agreement between Newburger, Loeb & Co. and Newburger, Loeb & Co., Inc. dated as of the 31st day of December, 1970, to accept delivery on behalf of the undersigned of certificates representing securities of Newburger, Loeb & Co., Inc. issued in the name of the undersigned, and to do such other acts as may be required in connection with the Closing of the transaction contemplated by the December 31, 1970 agreement, hereby ratifying and confirming all that the Attorneys, or any of them, may lawfully do in accordance with this Power of Attorney.

This Power of Attorney, being coupled with an interest, shall not be revoked by reason of the death or

incapacity of the undersigned, or otherwise. The provi- E 518
sions of this Power of Attorney shall inure to the benefit of Newburger, Loeb & Co., Inc., its successors and assigns, and shall be binding upon the Attorneys, the undersigned and their respective heirs, personal representatives, distributees and successors.

IN WITNESS WHEREOF, the undersigned has executed and delivered this instrument this 8th day of February, 1971.

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 8th day of February, 1971 before me personally appeared Willard S. Irle, to me known and known to me to be the person described in, and who executed, the foregoing instrument, and he duly acknowledged to me that he executed the same.

Notary Public

NICK G. VORIS
NOTARY PUBLIC, STATE OF NEW YORK
No. 24-9483485
Qualified in Kings County
Commission Expires March 30, 1972

POWER OF ATTORNEY

E 519

In order to represent the undersigned in connection with the transfer of the assets of Newburger, Loeb & Co. to Newburger, Loeb & Co., Inc., the undersigned does hereby appoint Stroock & Stroock & Lavan (hereinafter called the "Attorneys"), with full power of substitution and resubstitution, for and on behalf of the undersigned in any and all capacities and to the same extent as the undersigned personally could do, to deliver such documents as may be required at the Closing referred to in an agreement between Newburger, Loeb & Co. and Newburger, Loeb & Co., Inc. dated as of the 31st day of December, 1970, to accept delivery on behalf of the undersigned of certificates representing securities of Newburger, Loeb & Co., Inc. issued in the name of the undersigned, and to do such other acts as may be required in connection with the Closing of the transaction contemplated by the December 31, 1970 agreement, hereby ratifying and confirming all that the Attorneys may lawfully do in accordance with this Power of Attorney. I agree and direct that the securities of Newburger, Loeb & Co., Inc. to which I am entitled shall be delivered to and held by Robert D. Steefel as a member of the Committee of Attorneys for the Limited Partners pending the payment of appropriate legal fees by the limited partners.

This Power of Attorney, being coupled with an interest, shall not be revoked by reason of the death or incapacity of the undersigned, or otherwise. The

provisions of this Power of Attorney shall inure to the benefit of Newburger, Loeb & Co., Inc., its successors and assigns, and shall be binding upon the Attorneys, the undersigned and their respective heirs, personal representatives, distributees and successors. E 520

IN WITNESS WHEREOF, the undersigned has executed and delivered this instrument this 10 day of February, 1971.

Dr. Philip Phulman

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 10th day of February, 1971, before me personally appeared Dr. Philip Phulman, to me known and known to me to be the person described in, and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same.

Rae M Weber

RAE M. WEBER
Notary Public, State of New York
No. 24-4180075
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1971

POWER OF ATTORNEY

E 521

In order to represent the undersigned in connection with the transfer of the assets of Newburger, Loeb & Co. to Newburger, Loeb & Co., Inc., the undersigned does hereby appoint Arthur Richenthal or David Abrams (hereinafter called the "Attorney"), with full power of substitution and resubstitution, for and on behalf of the undersigned in any and all capacities and to the same extent as the undersigned personally could do, to deliver such documents as may be required at the Closing referred to in an agreement between Newburger, Loeb & Co. and Newburger, Loeb & Co., Inc., dated as of the 31st day of December, 1970, to accept delivery on behalf of the undersigned of certificates representing securities of Newburger, Loeb & Co., Inc. issued in the name of the undersigned, and to do such other acts as may be required in connection with the Closing of the transaction contemplated by the December 31, 1970 agreement, hereby ratifying and confirming all that the Attorney may lawfully do in accordance with this Power of Attorney. I agree and direct that the securities of Newburger, Loeb & Co., Inc. to which I am entitled shall be delivered to and held by Robert D. Steefel as a member of the Committee of Attorneys for the Limited Partners pending the payment of appropriate legal fees by the limited partners.

This Power of Attorney, being coupled with an interest, shall not be revoked by reason of the death or incapacity of the undersigned, or otherwise. The provisions of this Power of Attorney shall inure to the benefit of Newburger, Loeb & Co., Inc., its successors and assigns, and shall be binding upon the Attorneys, the undersigned and their respective heirs, personal representatives, distributees and successors.

E 522

IN WITNESS WHEREOF, the undersigned has executed and delivered this instrument this 11 day of February, 1971.

Joseph W. Quarte

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 11th day of February, 1971, before me personally appeared Joseph W. Quarte, to me known and known to me to be the person described in, and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same.

Irving M. Moss

IRVING M. MOSS
Notary Public, State of New York
No. 31-2795900
Qualified in New York County
Commission Expires March 30, 1973

1971

POWER OF ATTORNEY

E 523

In order to represent the undersigned in connection with the transfer of the assets of Newburger, Loeb & Co. to Newburger, Loeb & Co., Inc., the undersigned does hereby appoint Andrew M. Newburger _____ (hereinafter collectively called the "Attorneys"), and each of them severally, with full power in each to act without the other, and with full power of substitution and resubstitution, for and on behalf of the undersigned in any and all capacities and to the same extent as the undersigned personally could do, to deliver such documents as may be required at the Closing referred to in an agreement between Newburger, Loeb & Co. and Newburger, Loeb & Co., Inc. dated as of the 31st day of December, 1970, to accept delivery on behalf of the undersigned of certificates representing securities of Newburger, Loeb & Co., Inc. issued in the name of the undersigned, and to execute such documents, agree to such modifications and to do such other acts as may be required in connection with the Closing of the transaction contemplated by the December 31, 1970 agreement, hereby ratifying and confirming all that the Attorneys, or any of them, may lawfully do in accordance with this Power of Attorney.

This Power of Attorney, being coupled with an interest, shall not be revoked by reason of the death or

incapacity of the undersigned, or otherwise. The provisions of this Power of Attorney shall inure to the benefit of Newburger, Loeb & Co., Inc., its successors and assigns, and shall be binding upon the Attorneys, the undersigned and their respective heirs, personal representatives, distributees and successors.

E 524

IN WITNESS WHEREOF, the undersigned has executed and delivered this instrument this 11th day of Feb., 1971.

SN Shirley P. Newburger

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 11th day of February, 1971 before me personally appeared Shirley P. Newburger, to me known and known to me to be the person described in, and who executed, the foregoing instrument, and he duly acknowledged to me that he executed the same.

Anthony Gagliano
Notary Public

ANTHONY GAGLIANO
Notary Public, State of New York
No. 24-1356500
Qualified in Kings County
Commission Expires March 30, 1971

POWER OF ATTORNEY

E 525

In order to represent the undersigned in connection with the transfer of the assets of Newburger, Loeb & Co. to Newburger, Loeb & Co., Inc., the undersigned does hereby appoint DONALD L. NEWBORG and HERMAN JERVIS (hereinafter collectively called the "Attorneys"), and each of them severally, with full power in each to act without the other, and with full power of substitution and resubstitution, for and on behalf of the undersigned in any and all capacities and to the same extent as the undersigned personally could do, to deliver such documents as may be required at the Closing referred to in an agreement between Newburger, Loeb & Co. and Newburger, Loeb & Co., Inc. dated as of the 31st day of December, 1970, to accept delivery on behalf of the undersigned of certificates representing securities of Newburger, Loeb & Co., Inc. issued in the name of the undersigned, and to execute such documents, agree to such modifications and to do such other acts as may be required in connection with the Closing of the transaction contemplated by the December 31, 1970 agreement, hereby ratifying and confirming all that the Attorneys, or any of them, may lawfully do in accordance with this Power of Attorney.

This Power of Attorney, being coupled with an interest, shall not be revoked by reason of the death or

incapacity of the undersigned, or otherwise. The provisions of this Power of Attorney shall inure to the benefit of Newburger, Loeb & Co., Inc., its successors and assigns, and shall be binding upon the Attorneys, the undersigned and their respective heirs, personal representatives, distributees and successors.

E 526

IN WITNESS WHEREOF, the undersigned has executed and delivered this instrument this 11th day of February, 1971.

Betty N. Newborg

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 11th day of February, 1971 before me personally appeared Betty N. Newborg, to me known and known to me to be the person described in, and who executed, the foregoing instrument, and she duly acknowledged to me that she executed the same.

Paul M. Gartner
Notary Public

PAUL M. GARTNER
NOTARY PUBLIC, State of New York
No. 31-1381830
Qualified in New York County
Term Expires March 30, 1971

POWER OF ATTORNEY

E 527

In order to represent the undersigned in connection with the transfer of the assets of Newburger, Loeb & Co. to Newburger, Loeb & Co., Inc., the undersigned does hereby appoint Stroock & Stroock & Lavan (hereinafter called the "Attorneys"), with full power of substitution and resubstitution, for and on behalf of the undersigned in any and all capacities and to the same extent as the undersigned personally could do, to deliver such documents as may be required at the Closing referred to in an agreement between Newburger, Loeb & Co. and Newburger, Loeb & Co., Inc. dated as of the 31st day of December, 1970, to accept delivery on behalf of the undersigned of certificates representing securities of Newburger, Loeb & Co., Inc. issued in the name of the undersigned, and to do such other acts as may be required in connection with the Closing of the transaction contemplated by the December 31, 1970 agreement, hereby ratifying and confirming all that the Attorneys may lawfully do in accordance with this Power of Attorney. I agree and direct that the securities of Newburger, Loeb & Co., Inc. to which I am entitled shall be delivered to and held by Robert D. Steefel as a member of the Committee of Attorneys for the Limited Partners pending the payment of appropriate legal fees by the limited partners.

This Power of Attorney, being coupled with an interest, shall not be revoked by reason of the death or incapacity of the undersigned, or otherwise. The

provisions of this Power of Attorney shall inure to the benefit of Newburger, Loeb & Co., Inc., its successors and assigns, and shall be binding upon the Attorneys, the undersigned and their respective heirs, personal representatives, distributees and successors. E 528

IN WITNESS WHEREOF, the undersigned has executed and delivered this instrument this 11th day of February, 1971.

George B. Leon
As executor of the Will of
Morris Newburger, deceased

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 11th day of February, 1971, before me personally appeared George B. Leon, Executor, etc., to me known and known to me to be the person described in, and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same.

Louis Zimmerman

LOUIS ZIMMERMAN
Notary Public - State of New York
No. 31-4391331 New York County
Comm. expires March 30, 1971

POWER OF ATTORNEY

E 529

In order to represent the undersigned in connection with the transfer of the assets of Newburger, Loeb & Co. to Newburger, Loeb & Co., Inc., the undersigned does hereby appoint Stephen Ross (hereinafter called the "Attorney"), with full power of substitution and resubstitution, for and on behalf of the undersigned in any and all capacities and to the same extent as the undersigned personally could do, to deliver such documents as may be required at the Closing referred to in an agreement between Newburger, Loeb & Co. and Newburger, Loeb & Co., Inc. dated as of the 31st day of December, 1970, to accept delivery on behalf of the undersigned of certificates representing securities of Newburger, Loeb & Co., Inc. issued in the name of the undersigned, and to do such other acts as may be required in connection with the Closing of the transaction contemplated by the December 31, 1970 agreement, hereby ratifying and confirming all that the Attorney may lawfully do in accordance with this Power of Attorney.

I agree and direct that the securities of Newburger, Loeb & Co., Inc. to which I am entitled shall be delivered to and held by Robert D. Steefel as a member of the committee of attorneys for the limited partners pending the payment of my (S.Z.M.) appropriate pro rata portion of the legal fees by the limited partners.

This Power of Attorney, being coupled with an interest, shall not be revoked by reason of the death or incapacity of the undersigned, or otherwise. The provisions of this Power of Attorney shall inure to the benefit of Newburger, Loeb & Co., Inc., its successors and assigns, and shall be binding upon the Attorneys, the undersigned and their respective heirs, personal representatives, distributees and successors.

IN WITNESS WHEREOF, the undersigned has executed and delivered this instrument this 10th day of February, 1971.

Bruce B. Dixon

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 10 day of February, 1971, before me personally appeared GERALD N. FRANK, to me known and known to me to be the person described in, and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same.

Herbert Rosenberg

Notary Public, State of New York
No. 30-[illegible]
Qualified in [illegible] County
Cert. filed in New York County
Commission Expires March 30, 1972

POWER OF ATTORNEY

E 531

In order to represent the undersigned in connection with the transfer of the assets of Newburger, Loeb & Co. to Newburger, Loeb & Co., Inc., the undersigned does hereby appoint Stephen Ross (hereinafter called the "Attorney"), with full power of substitution and resubstitution, for and on behalf of the undersigned in any and all capacities and to the same extent as the undersigned personally could do, to deliver such documents as may be required at the Closing referred to in an agreement between Newburger, Loeb & Co. and Newburger, Loeb & Co., Inc. dated as of the 31st day of December, 1970, to accept delivery on behalf of the undersigned of certificates representing securities of Newburger, Loeb & Co., Inc. issued in the name of the undersigned, and to do such other acts as may be required in connection with the Closing of the transaction contemplated by the December 31, 1970 agreement, hereby ratifying and confirming all that the Attorney may lawfully do in accordance with this Power of Attorney.

I agree and direct that the securities of Newburger, Loeb & Co., Inc. to which I am entitled shall be delivered to and held by Robert D. Steefel as a member of the committee of attorneys for the limited partners pending the payment of my (S.7.7) appropriate pro rata share of the legal fees by the limited partners.

This Power of Attorney, being coupled with an interest, shall not be revoked by reason of the death or incapacity of the undersigned, or otherwise. The provisions of this Power of Attorney shall inure to the benefit of Newburger, Loeb & Co., Inc., its successors and assigns, and shall be binding upon the Attorneys, the undersigned and their respective heirs, personal representatives, distributees and successors.

E 532

IN WITNESS WHEREOF, the undersigned has executed and delivered this instrument this 10th day of February, 1971.

Gerrid N. Frank

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 10 day of February, 1971, before me personally appeared GERRID N. FRANK, to me known and known to me to be the person described in, and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same.

Herbert Bomeau

HERBERT BOMEAU
Notary Public, State of New York
No. 03-[illegible]
Qualified in Nassau County
Cert. filed in New York County
Commission Expires March 30, 1972

POWER OF ATTORNEY

E 533

In order to represent the undersigned in connection with the transfer of the assets of Newburger, Loeb & Co. to Newburger, Loeb & Co., Inc., the undersigned does hereby appoint Louis Zimmerman, 250 West 57th St., New York, N.Y. 10019 (hereinafter collectively called the "Attorneys"), and each of them severally, with full power in each to act without the other, and with full power of substitution and resubstitution, for and on behalf of the undersigned in any and all capacities and to the same extent as the undersigned personally could do, to deliver such documents as may be required at the Closing referred to in an agreement between Newburger, Loeb & Co. and Newburger, Loeb & Co., Inc. dated as of the 31st day of December, 1970, to accept delivery on behalf of the undersigned of certificates representing securities of Newburger, Loeb & Co., Inc. issued in the name of the undersigned, and to execute such documents, agree to such modifications and to do such other acts as may be required in connection with the Closing of the transaction contemplated by the December 31, 1970 agreement, hereby ratifying and confirming all that the Attorneys, or any of them, may lawfully do in accordance with this Power of Attorney.

This Power of Attorney, being coupled with an interest, shall not be revoked by reason of the death or

incapacity of the undersigned, or otherwise. The provisions of this Power of Attorney shall inure to the benefit of Newburger, Loeb & Co., Inc., its successors and assigns, and shall be binding upon the Attorneys, the undersigned and their respective heirs, personal representatives, distributees and successors.

E 534

IN WITNESS WHEREOF, the undersigned has executed and delivered this instrument this 11TH day of February, 1971.

John J. Schmidt

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

On this 11 day of February, 1971 before me personally appeared John J. Schmidt, to me known and known to me to be the person described in, and who executed, the foregoing instrument, and he duly acknowledged to me that he executed the same.

Notary Public

ROBERT I. MARCUS
Notary Public, State of New York
No. 60-7711609
Qualified in Westchester County
Cert. filed with N. Y. County Clerk
Term expires March 30, 197-

POWER OF ATTORNEY

E 535

In order to represent the undersigned in connection with the transfer of the assets of Newburger, Loeb & Co. to Newburger,Loeb & Co., Inc., the undersigned does hereby appoint SANFORD ROGGENBURG and RICHARD M. TICKTIN (hereinafter collectively called "The Attorneys"), and each of them severally, with full power in each to act without the other, and with full power of substitution and resubstitution, for and on behalf of the undersigned in any and all capacities and to the same extent as the undersigned personally could do, to deliver such documents as may be required at the Closing referred to in an agreement between Newburger, Loeb & Co. and Newburger, Loeb & Co., Inc., dated as of the 31st day of December, 1970, to accept delivery on behalf of the undersigned of certificates representing securities of Newburger, Loeb & Co., Inc. issued in the name of the undersigned and to execute such documents, agree to such modifications and to do such other acts as may be required in connection with the Closing of the transaction contemplated by the December 31, 1970 agreement, hereby ratifying and confirming all that The Attorneys, or either of them, may lawfully do in accordance with this Power of Attorney.

This Power of Attorney, being coupled with an interest, shall not be revoked by reason of the death or incapacity of the undersigned, or otherwise. The provisions of this Power of Attorney shall inure to the benefit of Newburger, Loeb & Co., Inc., its successors and assigns, and shall be binding upon The Attorneys, the undersigned and his respective heirs, personal representatives, distributees, and successors.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Instrument this 11th day of February, 1971.

Adolphus Roggenburg
Adolphus Roggenburg

Sworn to and subscribed
before me this 11th day
of February, 1971.

Notary Public, State of Florida

My Commission Expires:

E 536

COUNTY OF DADE
STATE OF FLORIDA } SS.

Nº 6556 A

I, E. B. LEATHERMAN, Clerk of the Circuit Court of the Eleventh Judicial Circuit in and for the County of Dade, and State of Florida, the same being a Court of Record of the aforesaid County and State, having by law a seal, DO HEREBY

CERTIFY that Elaine Carey

by whom the foregoing acknowledgment or proof was taken, and whose name is subscribed thereto, was at the time of taking the same, a Notary Public residing in said County, duly commissioned and sworn and authorized by the laws of said State, to take the acknowledgment or proof of deeds and other instruments in writing to be recorded in said State, and to administer oaths or affirmations in said County; that I have compared the signature of such Notary Public with a specimen of h[illegible] signature on file in my office, and verily believe that the signature to the foregoing original Certificate is genuine.

I FURTHER CERTIFY that I have compared the impression of the seal affixed thereto with a specimen impression thereof on file in my office, and I verily believe the impression of such seal upon the original Certificate to be genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 11 day of February 19 61

E. B. LEATHERMAN,
Clerk Circuit Court,

By [illegible] Deputy Clerk.

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DEFENDANTS' EXHIBIT Y,
Item No. 14.

14

E 537

February 12 1971 No.

Morgan Guaranty Trust Co.
23 Wall Street

NEWBURGER, LOEB & Co., INC.

Pay to the order of Newburger, Loeb & Co. $275,000 XX

Two hundred seventy-five thousand and no/100 Dollars

NEWBURGER, LOEB & Co., INC.
Robert N. Mack, V.P.

NYSE SEAT

February 12 1971 No.

MORGAN GUARANTY TRUST CO.
23 Wall Street

NEWBURGER, LOEB & CO., INC.

Pay to the order of Newburger, Loeb & Co. $150,000 XX

One hundred fifty thousand and no/100 Dollars

NEWBURGER, LOEB & CO., INC.

NSE SEAT

DEFENDANTS' EXHIBIT Y,
Item No. 14.

E 538

DEFENDANTS' EXHIBIT Y,
Item No. 14.

New York Stock Exchange
4 New York Plaza
New York, New York

E 539

ATT: Mr. Lutes, Office of the Secretary

Gentlemen:

WHEREAS, Newburger, Loeb & Co., Inc. has this day delivered and paid over to Newburger, Loeb & Co., a partnership, the sum of $275,000 in connection with the retention by Mr. William A. McGovern of his membership in the New York Stock Exchange and the relinquishment and surrender by Newburger, Loeb & Co. of any and all interests in and to said membership howsoever arising.

NOW, THEREFORE, for and in consideration of the aforesaid payment and other valuable considerations to the undersigned in hand paid by Newburger, Loeb & Co., Inc., the receipt whereof is hereby acknowledged, Newburger, Loeb & Co. has remised, released and forever discharged, and by these presents does for itself and its successors and assigns, remise, release, and forever discharge the said Mr. William A. McGovern, his heirs, executors, and administrators and Newburger, Loeb & Co., Inc., its successors and assigns, of and from all cause and causes of actions, agreements, promises, claims, and demands whatsoever in law or in equity, which against the said Mr. William A. McGovern and Newburger, Loeb & Co., Inc. he or his or it and/or its successors and assigns had, now has or hereafter can, shall, or may have for, upon or by reason or in respect of the aforementioned membership of Mr. William A. McGovern in the New York Stock Exchange.

It is understood and agreed that the terms and provisions of this release, as above set forth, is limited only to the releasing of Mr. William A. McGovern from the terms and provisions of the ABC agreement contained in the Firm's partnership articles covering said membership of Mr. William A. McGovern. That the firm of Newburger, Loeb & Co. reserves all its rights to adjust and satisfy any claims that it may have as against Mr. William A. McGovern for his proportionate share of any losses that may be established by the final accounting figures covering the retirement of Mr. William A. McGovern from the firm of Newburger, Loeb & Co.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the 11th day of February in the year of Our Lord one thousand nine hundred and seventy-one.

NEWBURGER, LOEB & CO.

Robert L. Newburger - Partner
Andrew M. Newburger - Partner
Robert L. Stern - Partner

American Stock Exchange
86 Trinity Place
New York, New York

DEFENDANTS' EXHIBIT Y,
Item No. 14.

E 540

ATT: Mr. Concannon, Office of the Secretary

Gentlemen:

WHEREAS, Newburger, Loeb & Co., Inc. has this day delivered and paid over to Newburger, Loeb & Co., a partnership, the sum of $ 150,000 in connection with the retention by Mr. Richard David Stern of his membership in the American Stock Exchange and the relinquishment and surrender by Newburger, Loeb & Co. of any and all interests in and to said membership howsoever arising.

NOW, THEREFORE, for and in consideration of the aforesaid payment and other valuable considerations to the undersigned in hand paid by Newburger, Loeb & Co., Inc., the receipt whereof is hereby acknowledged, Newburger, Loeb & Co. has remised, released and forever discharged, and by these presents does for itself and its successors and assigns, remise, release, and forever discharge the said Mr. Richard David Stern, his heirs, executors, and administrators and Newburger, Loeb & Co., Inc., its successors and assigns, of and from all cause and causes of actions, agreements, promises, claims, and demands whatsoever in law or in equity, which against the said Mr. Richard David Stern and Newburger, Loeb & Co., Inc. he or his or it and/or its successors and assigns had, now has or hereafter can, shall, or may have for, upon or by reason or in respect of the aforementioned membership of Mr. Richard David Stern in the American Stock Exchange.

It is understood and agreed that the terms and provisions of this release, as above set forth, is limited only to the releasing of Mr. Richard David Stern from the terms and provisions of the ABC agreement contained in the Firm's partnership articles covering said membership of Mr. Richard David Stern. That the firm of Newburger, Loeb & Co. reserves all its rights to adjust and satisfy any claims that it may have as against Mr. Richard David Stern for his proportionate share of any losses that may be established by the final accounting figures covering the retirement of Mr. Richard David Stern from the firm of Newburger, Loeb & Co.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the 11th day of February in the year of Our Lord one thousand nine hundred and seventy-one.

NEWBURGER, LOEB & CO.

Robert L. Newburger - Partner

Andrew M. Newburger - Partner

Robert L. Stern - Partner

DEFENDANTS' EXHIBIT Y, Item No. 15.

NEWBURGER, LOEB & CO., INC.

E 541

Certificate of Resolutions

I, LAWRENCE J. BERKOWITZ, Secretary of Newburger, Loeb & Co., Inc., a Delaware corporation, DO HEREBY CERTIFY that at a meeting of the Board of Directors of the Corporation duly held on the 11th day of February, 1971, at which a majority of the members were present and voting, the following resolutions were adopted and that they have not been rescinded or modified and remain in full force and effect as of the date hereof:

> RESOLVED, that the execution, delivery and performance of the Agreement dated the 31st day of December 1970 between the Corporation and Newburger, Loeb & Co., a limited partnership, be and it hereby is ratified, confirmed and approved in all respects;

and it was further

> RESOLVED, that the appropriate officers of the Corporation or any one of them be, and they hereby are, authorized and directed to take any action necessary or otherwise required on behalf of this Corporation to perform and fulfill the obligations of this Corporation under said Agreement and to execute any and all documents or other instruments in connection therewith and containing such other and further terms and conditions as they may deem necessary or appropriate; and that the execution of any such documents by any one or more of such officers shall be accepted as conclusive evidence of the due authorization thereof by the Corporation;

and it was furtner

> RESOLVED, that the Corporation, upon the closing of the transactions contemplated by the aforesaid Agreement and in accordance with the terms thereof, shall issue its Subordinated Convertible Notes due December 31, 1974 in the aggregate principal amount of $1,315,494 to the

DEFENDANTS' EXHIBIT Y, Item No. 15.

Estate of Lester M. Newburger, the Estate of Morris Newburger, Gerald N. Frank, Willard S. Irle, Jack Wachs, Saul A. Brown, Joseph W. Quarte and Phillip Shulman, as their respective interests may appear; an aggregate of 8,769 shares of the Corporation's Series A Preferred Stock, par value $100 per share, to the Estate of Lester M. Newburger, the Estate of Morris Newburger, Gerald N. Frank, Willard S. Irle, Jack Wachs, Saul A. Brown, Joseph W. Quarte and Phillip Shulman, as their respective interests may appear; an aggregate of 9,399 shares of the Corporation's 5% Convertible Preferred Stock, par value $100 per share, to Leo Stern, Richard D. Stern, Edward R. Holt and Adolphus Roggenburg, as their respective interests may appear; an aggregate amount of 256,300 shares of the Corporation's Non-Voting Common Stock, par value 1¢ per share, to Albert Dworkin, Milton Lobel, Irving Lobel, Geza and Kinko Polaty, Shirley P. Newburger, Betty N. Newborg and Angel M. Aixala, as their respective interests may appear; and an aggregate of 774,000 shares of the Corporation's Voting Common Stock, par value 1¢ per share, to Paul Risher, Robert Muh, Fred Kayne, William McGovern, Richard Stern, Lawrence J. Berkowitz, Charles Sloane and Robert L. Newburger, as their respective interests may appear;

and it was further

RESOLVED, that the Corporation reserve out of its authorized but unissued Non-Voting Common Stock for issuance upon conversion of its Subordinated Convertible Notes due December 31, 1974, its Series A Preferred Stock and its 5% Convertible Preferred Stock an aggregate of 300,998 shares of Non-Voting Common Stock;

and it was further

RESOLVED, that the execution and delivery to Angel M. Aixala of the Senior Subordination Agreement in the form and substance presented to this meeting and annexed hereto as Exhibit A be and it hereby is adopted and approved in all respects;

and it was further

RESOLVED, that the execution and delivery of the Subordinated Account Agreements, in the form and substance presented to this meeting, and annexed hereto as Exhibit B, to Albert Dworkin,

DEFENDANTS' EXHIBIT Y,
Item No. 15.

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Milton Lobel, Irving Lobel, Geza Polaty and Kinko Polaty, Shirley P. Newburger and Betty N. Newborg be and they hereby are adopted and approved in all respects;

and it was further

RESOLVED, that the appropriate officers of any one of them be and they hereby are authorized and directed to issue, execute and deliver the aforesaid Subordinated Convertible Notes, the aforesaid shares of the Corporation's Series A Preferred Stock, the aforesaid shares of the Corporation's 5% Convertible Preferred Stock, the aforesaid shares of the Corporation's Non-Voting Common Stock and the aforesaid shares of the Corporation's Voting Common Stock, and to execute and deliver the Senior Subordination Agreement and the Subordinated Account Agreements.

IN WITNESS WHEREOF, the undersigned has executed this Certificate and caused the seal of the Corporation to be affixed thereunto the 11th day of February, 1971.

Lawrence A. Bertsch
Secretary

[Corporate Seal]

DEFENDANTS' EXHIBIT Y,
Item No. 16.

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NEWBURGER, LOEB & CO., INC. E 544

Officer's Certificate

I, PAUL RISHER, President of Newburger, Loeb & Co., Inc., a Delaware corporation, pursuant to paragraph 10(b)5 of the Agreement dated December 31, 1970 between Newburger, Loeb & Co., Inc. and Newburger, Loeb & Co., a limited partnership, DO HEREBY CERTIFY that the representations and warranties given by Newburger, Loeb & Co., Inc. in the aforesaid Agreement are true and correct as of the date of this Certificate; and that all agreements to be performed and obligations to be fulfilled by Newburger, Loeb & Co., Inc. under the aforesaid Agreement as of the closing date thereunder have been performed to the extent they have not been waived by Newburger, Loeb & Co.

IN WITNESS WHEREOF, the undersigned has executed this Certificate the 11th day of February 1971.

Paul D. Risher

President

DEFENDANTS' EXHIBIT Y,
Item No. 17.

E 545

NEWBURGER, LOEB & CO., INC.
5 Hanover Square
New York, New York

Newburger, Loeb & Co.
5 Hanover Square
New York, New York

Gentlemen:

We are writing you in connection with the closing the the transactions contemplated by the agreement between us dated December 31, 1970 (the "Agreement"). On behalf of Transferee, we hereby inform you as follows:

1. On the basis of the examination of the relevant documents by our counsel, Finley, Kumble, Underberg, Persky & Roth, we hereby waive the representation and warranty in the second sentence of paragraph 4(b).

2. We except from the warranty contained in Section 4(d) and (e) of the Agreement agreements entered into in connection with the consummation of the transactions contemplated in the Agreement.

3. In view of the review which has been undertaken by our counsel, Finley, Kumble, Underberg, Persky & Roth, we waive the condition set forth in Section 6(f) of the Agreement.

4. With respect to the condition in Section 6(g), we do not consider the threatened claims of Charles Gross, Mabel Bleich or Jeanne Donahue to be in violation thereof.

5. With respect to the condition set forth in Section 6(h) concerning statutory and regulatory requirements, we waive this condition in view that this matter has been handled by our house counsel.

DEFENDANTS' EXHIBIT Y,
Item No. 17.

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6. We acknowledge that you have complied with Section 6(m).

7. We acknowledge that you have complied with Section 8 of the Agreement.

Very truly yours,

NEWBURGER, LOEB & CO., INC.

By _____

P.S. In addition, we received an opinion of our counsel, in the absence of opinion of counsel of Transferor, and close on that basis.

DEFENDANTS' EXHIBIT Y,
Item No. 18.

ASSUMPTION OF LIABILITIES

E 547

KNOW ALL MEN BY THESE PRESENTS THAT

WHEREAS, Newburger, Loeb & Co., a New York limited partnership (hereinafter called "Transferor") has this day transferred, assigned and delivered to Newburger, Loeb & Co., Inc., a Delaware corporation, (hereinafter called "Transferee") certain assets; and

WHEREAS, Transferee has agreed to assume certain obligations of Transferor.

NOW, THEREFORE, for good and valuable consideration, Transferee does hereby covenant and agree as follows:

1. Transferee assumes and agrees to pay, perform and discharge (a) all liabilities and obligations of Transferor set forth on the Balance Sheet dated December 31, 1970; (b) all liabilities and obligations of Transferor set forth on the schedule attached hereto; and (c) all liabilities and obligations incurred by Transferor from December 31, 1970 to the date hereof in the ordinary course of its business.

2. Exc[illegible]s herein provided, Transferee shall not assume or become liable for any obligations or liabilities of Transferor.

3. Transferee will indemnify and hold harmless Transferor, any member thereof, and its successors and assigns, against any claims, losses or liabilities resulting from the failure of Transferee to

DEFENDANTS' EXHIBIT Y,
Item No. 18.

satisfy each and every obligation herein assumed.

IN WITNESS WHEREOF, Newburger, Loeb & Co., Inc. has caused this Assumption to be executed by its duly authorized officer this 11th day of February, 1971.

NEWBURGER, LOEB & CO., INC.

By Lawrence J. Newburger V.P.

[SEAL]

ACCEPTED AND AGREED TO:

Newburger, Loeb & Co.

By Robert A. Newburger
General Partner

By Richard M. Newburger
General Partner

By Robert L. Aller
General Partner

DEFENDANTS' EXHIBIT Y, Item No. 18.

LEHMAN BROTHERS, LOEB & CO.

BALANCE SHEET

DECEMBER 31, 1970

E 549

UNAUDITED

ASSETS

CURRENT ASSETS		
Cash in Bank & on Hand		$ 142,251
Receivable from brokers & dealers		255,956
Receivable from W. E. Hutton & Co.		
- Commissions	$ 145,249	
- Floor Brokerage	20,283	
- Firm Trading	306,068	
- Omnibus	62,454	534.054
Receivables from customers unsecured (net of reserves)		217,644
Market value of securities in partners, firm and subordinated accounts		1,073,940
Prepaid expenses		
- Prepaid Conversion Cost	52,047	
- Prepaid Taxes	10,628	62,675
Other Current Assets		
- Good Faith Deposits	28,300	
- Receivable from Rosen & Co.	7,976	36,276
Total Current Assets		2,322,796
OTHER ASSETS		
Memberships in New York & American Stock Exchanges net of reserves		300,000
Furniture & Fixtures, net of depreciation		581,665
Investment and Advances to Subsidiary Corporations		
- N/L Holding Co.	38,500	
- N/L Sports Enterprises, Inc. (fully reserved)	- -	38,500
Subordinated Loan Receivable from W. E Hutton - cash		172,399
Subordinated Loan Receivable from W. E. Hutton- securities		206,617
MISCELLANEOUS		
Dividends Receivable (net of reserves $34,363)		2,783
Rent Deposit		5,970
James Anthony Liquidation ($11,148 fully reserved)		- -
Receivable from Partners		66,210
Other		2,570
TOTAL ASSETS		$3,699,510

DEFENDANTS' EXHIBIT Y, Item No. 18.

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NEWBURGER, LOEB & CO.
BALANCE SHEET
DECEMBER 31. 1970

UNAUDITED

LIABILITIES AND CAPITAL

CURRENT LIABILITIES		
Payable to Brokers and Dealers		$ 16,133
Atlas Realty Liability		197,949
Payable to Customers		41,090
Accounts Payable and Accrued Expenses		
- Commissions to Salesmen	$154,830	
- Interest on Capital	45,000	
- Dividends	58,914	
- Miscellaneous Accruals and Expenses	160,033	418,777
RESERVE FOR LOSS IN NEW-LOEB SPORTS		47,876
CAPITAL		2,977,685
TOTAL LIABILITIES AND CAPITAL		$3,699,510

A. SPECIFIC LEASE RELATED LIABILITIES

1. 66 Beaver
$20,000 - $25,000 to Landlord for back escalation for wages and taxes.

2. 9020 Flatbush Avenue
$700 water bill.

3. 525 Seventh Avenue
$1,500 - January rent payment due.*

4. 57 West 57th Street, Room 2000
$7,000 November-January.

5. 4 East 28th Street (Hotel Latham)
Vol. escalation $5,000.
Rent: December-January $3,000.

6. 40 Exchange Place
$3,000 per month, starting January 1.
(Paid until December 31, 1970.)

7. One New York Plaza
Lease settlement, $13,705 per month until June 1972.

8. Franklin Street Warehouse
Waldorf Carting, $1,100.

9. Beverly Hills Rent Claim. **

B. SPECIFIC EQUIPMENT OBLIGATIONS

1. Six Savin Business Machines: $1,000 back lease owing.

2. Bunker Ramo: $6,000 from closed offices (Three months - November-January).

C. SPECIFIC PROFESSIONAL AND OTHER SERVICES (Contested or Overdue)

1.	Lipkowitz & Plaut	$ 2,000
2.	Managers' Salaries	25,000

D. TAXES

1. State and Local Taxes of Transferor as a separate entity from January 1, 1970 to Closing Date, if any.

2. Real estate, water and similar taxes and assessments with respect to premises at 2091 Broadway.

E. MISCELLANEOUS

1. Claims, if any, of Ned Frank and/or Sanford Roggenburg for payments in connection with Transferor's profit-sharing plan.

* See Schedule "C", Item 15.
** See Schedule "C", Item 12

DEFENDANTS' EXHIBIT Y, Item No. 18.

F. CONTINGENT LIABILITIES

1. The Corporation will assume liability, if any, for all items set forth in Schedule "C". In addition, the Corporation will pay for all costs and expenses in connection with the defense of all such items.

2. Indemnity Agreement on Seaboard Surety Company, Bond No. 74426, for 1,200 shares of Warner Lambert Common Stock, amount open (approximately $84,000).

G. 1. All liabilities, obligations and claims of whatsoever kind and nature with respect to or arising out of or in connection with any of the leases, contracts, agreements and other commitments set forth in Schedule "B" hereto.

2. All liabilities, obligations and claims of whatsoever kind and nature with respect to or arising out of or in connection with the amendment, modification, assignment, extension, settlement or cancellation on or subsequent to August 1, 1970, of any leases, contracts, agreements and other commitments of the Transferor, whether or not any of such leases, contracts, agreements and other commitments are set forth in Schedule "B" hereto.

3. All liabilities, obligations and claims of whatsoever kind and nature with respect to or arising out of or in connection with any and all professional and other services rendered for and on behalf of the Transferor at any time and from time to time between August 1, 1970 and the Closing (as such term is defined in the Agreement).

4. All liabilities, obligations and claims of whatsoever kind and nature with respect to or arising out of or in connection with the Buffalo Braves Basketball Team, including the claims of Peter Crotty and Norman Blass.

5. All liabilities, obligations and claims of whatsoever kind and nature which are directly reflected in the books and records of the Transferor maintained by the accounting department of Transferor (whether or not all or any portion of the amount thereof is so reflected or referred to).

6. All liabilities, obligations and claims of whatsoever kind and nature relating to the business of Transferor (a) of which any one of Paul Risher, Robert Muh, Fred Kayne or Lawrence Berkowitz have actual knowledge on February 11, 1971, or (b) which written notice was received by the Transferor after August 1, 1970.

7. All liabilities, obligations and claims, if any, of George F. Conniff, Jacob Schafer, Robert F. Therese, John F. Thistleton and Joseph L. Searles, III, with respect to the balances in their respective capital accounts as of December 31, 1970 and as of the Closing Date.

8. If the taxable income realized by the Transferor with respect to the period commencing on January 1, 1971 and ending on the close of business on February 10, 1971 shall, in the reasonable opinion of the certified public accountants for any member (general or limited partner) of the

Transferor, produce for such member any Federal, State or local taxes in any year(including, for all purposes hereof, by reason of any reduction in the amount of any tax loss carry-back or carry forward to which such member would otherwise be entitled), which but for such taxable income would not be produced in such year, the Transferee agrees to pay to such member of the Transferor an amount equal to all of such additional taxes so produced within 3-1/2 months from the end of the year in which such tax shall be due.

The enumeration of specific items on this Schedule A-2 shall not, to any extent, limit the provisions of paragraph 1 through 8 above.

The headings and captions in this Schedule are merely for identification purposes and in no way limit in any way the provisions thereof.

DEFENDANTS' EXHIBIT Y, Item No. 18.

LEASES & OTHER CONTRACTS

A. Location

66 Beaver
(5 Hanover Sq.)
8th & 9th Floors
10th Fl.
12th Fl.
14th Fl.
24th Fl.
40 Exchange Place
6th Fl.
4 East 28th Street
525 Seventh Avenue***
57 W. 57th Street
2091 Broadway
250 Park Avenue

*Century City (1900 Ave. of the Stars)

**Beverly Hills (110 N. Doheny Dr.)

55 Hudson Street (Franklin Moving & Storage Company)
*52 Broadway 7th Fl.
*115 Broadway 18th Fl.
*76 Beaver Street 6th Fl.
*931 Madison

B. Quotation and Information Services and Equipment

Bunker Ramo
Trans Lux
Dow Jones
Ultronics Systems
NASDAQ LEVEL I

---

*Denotes all or a portion of the space is currently being sublet.
**Arbitration with Lewis Bracker-see Schedule "C", Item 12.
***See Item 15, Schedule "C".

SCHEDULE "B"

SCHEDULE "B"

DEFENDANTS' EXHIBIT Y, Item No. 18.

C. Insurance Contracts

Brokers Blanket Bond, etc.
Automobile Non-Ownership
Office Building Contract
Office Package Policy
Umbrella Liability
Long Term Disability Policy
New York State Disability
Group Life Contract
Steam Boiler
Workmen's Compensation
Blue Cross and Blue Shield

D. Savin Business Machines

E. Picture Rental - California Office

F. Subscriptions - various financial and legal services

G. Wall Street Bookkeeping
Internal Control Specialists
Larry Firrincieli

H. Retail Credit Bureau of Greater New York; Exchange Firms Information Service

I. Building Maintenance, cleaning contracts and air conditioning (Master Cooling)

J. Clearing Agreement W. E. Hutton

K. Agreements concerning Circuit Technology with said corporation, Chartered New England, Golenbock and Barell, Irving Friedman and Jim Herbert

L. Lawrence Berkowitz - Employment Contract

M. Minco Co. (Pneumatic Tubes)

N. Three Automobile Leases

O. Markit Communications, Inc. (Private Placement - Best Efforts)

P. Estabrook - Printing

Q. Norman Blass - $30,000 remaining - finder's fee - Buffalo Braves

R. Profit-Sharing Plan

S. Letter agreements with First National City Bank with respect to loans to certain partners

T. Any and all underwriting contracts

SCHEDULE "B"
page 2

LITIGATION

Litigation Where Transferee Or Any Of Its Partners Is Defendant Or Where A Counterclaim Is Instituted Against Any Of Them	Attorney Rep.	Claim
1. Belmont Franchising Matter (several cases)	Golenbock and Barell	$ 19,000
2. Lincoln Securities	" "	15,400
3. Murad, Onig & Ogene - NYSE	Finley, Kumble	15,000
4. Jeslow Investment Co. & Arthur & Yetta Shapiro	O. K. Fraenkel	114,325 (100,000 punitive 14,325 comp.)
5. Pershing & Co. (Westec Loss)	O. K. Fraenkel	17,600
6. American Nat'l Bank & Trust Co. of Chicago	O. K. Fraenkel	85,000 (25,000 punitive 60,000 comp.)
7. Maryland National Bank v. Blum & N/L Jacobs v. Blum & N/L		82,418.75
8. Marie Louise Jam	O. K. Fraenkel	30,000 est.
9. Jacobi, American Assn. of Sec. Reps. v. N/L et al	Finley, Kumble	(Amount not specified in complaint)
10. George Polk	Finley, Kumble	137,000
11. DiJulio, et al v. Digicon Inc., et al	Dewey, Ballantine	66,000
12. Lewis Bracker (rent claim 1 mo. Beverly Hills)	Finley, Kumble	3,500
13. Hershberg	O. K. Fraenkel	2,000
14. Simonoff, Pyser & Citren	Finley, Kumble	22,500
15. Fashion Center Building Corp. v. N/L and Andrew Newburger (rent claim 2 mos. 525 7th Ave.)	Finley, Kumble	1,500
16. Peter Crotty		100,000

SCHEDULE C
DEFENDANTS' EXHIBIT Y,
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SCHEDULE C

Potential Litigation in which Newburger, Loeb and/or any of its Partners and/or the Transferee may be defendant	Claim (est.)*
1. Seymour Kott	$31,000
2. Jenny Grunbacher (alias "Marie Alvarez")	$ 5,000
3. Charles Gross, Mabel Bleich, Jeanne Donoghue and Lewis Bracker	Amounts related to capital account and/or rights and obligations under the Restated Articles of Limited Partnership of the Transferor, dated 2/26/70 and/or threatened claims arising from or in connection with this Agreement and/or damages arising from "non-Competition" clause in the aforementioned Partnership Agreement.
4. Sheldon Silver	$30,000
5. First National City Bank (EduWorld)	$240,000
6. Joseph Tart, Marjorie Keller & Robert Mullarkey	Libel claim
7. Abraham & Co.	$11,000 (approx.)
8. Complaints and claims, not otherwise referred to herein, received prior to closing from customers, brokers, dealers and banks in connection with the carrying on of its business, none of which exceeds $10,000. The Transferee assumes such claims in the maximum aggregate amount of $100,000.	

* Estimate for identification of claim only, rather than limitation of liability.

DEFENDANTS' EXHIBIT Y, Item No. 18.

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DEFENDANTS' EXHIBIT Y,
Item No. 19.

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FINLEY, KUMBLE, UNDERBERG, PERSKY & ROTH

LEON FINLEY
STEVEN J. KUMBLE
NEIL UNDERBERG
ROBERT S. PERSKY
HERBERT E. ROTH
DONALD ZIMMERMAN

LOUIS BECK
NORMAN ROY GRUTMAN
THEODORE J. GREENE
ALAN M. GELB
B. HOWARD RAPPAPORT

RICHARD E. CARTER
PAUL R. AUER
LEWIS H. SANDLER
STANLEY L. GOLDEN
BENJAMIN IRA GERTZ
JOHN P. A. MARCIN
DONALD S. SNIDER
HOWARD L. BASS
ROBERT E. PEDUZZI

STEPHEN A. WEISS
L. MARTIN GIBBS
MICHAEL A. BAMBERGER
ROBERT L. FALKER
LENORE D. KALNUS
SHELDON M. GOLDSTEIN
WILLIAM F. ROSENBLUM, JR.
PETER J. LANE
STEPHEN G. DICKERMAN

477 MADISON AVENUE
NEW YORK, NEW YORK 10022

755-7600
(AREA CODE 212)

CABLE: LENFINLEY
NEW YORK

February 11, 1971

Newburger, Loeb & Co.
5 Hanover Square
New York, New York 10004

Re: Agreement dated December 31, 1970
between Newburger, Loeb & Co., Inc.
and Newburger, Loeb & Co.

Gentlemen:

We have acted as counsel for Newburger, Loeb & Co., Inc., a Delaware corporation (hereinafter called the "Transferee") in connection with the agreement between you, as Transferor, and the Transferee dated December 31, 1970 (the "Agreement") under which you are transferring to the Transferee all of your assets, real and personal, tangible and intangible, vested or contingent, of any nature whatsoever to the Transferee, and the Transferee is assuming certain liabilities as more specifically set forth in the Agreement.

In this connection, we have examined such certificates of officers of the Transferee and copies certified to our satisfaction of such corporate documents and resolutions of the Transferee and other corporate records as we have deemed relevant and necessary as the basis for our opinion hereinafter set forth. We have relied upon such certificates of officers of the Transferee with respect to the accuracy of material factual matters contained therein which were not independently established.

Based upon the foregoing, we are of the opinion that:

1. The Transferee is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has been duly qualified in the State of New York

DEFENDANTS' EXHIBIT Y,
Item No. 19.

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as a foreign corporation authorized to transact business therein. We have prepared and filed with the State of California the appropriate papers in order to qualify the Transferee as a foreign corporation authorized to do business therein, and, to the best of our knowledge and belief, upon the receipt of such papers by the Secretary of State of the State of California such papers shall be accepted for filing and the Corporation shall be qualified as a foreign corporation in the State of California.

2. The execution, delivery and performance of the Agreement have been duly authorized by the Board of Directors of the Transferee.

Very truly yours,

FINLEY, KUMBLE, UNDERBERG,
PERSKY & ROTH

By: Robert S. Persky

RSP:sk

DEFENDANTS' EXHIBIT Y,
Item No. 20.

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TO ALL TO WHOM THESE PRESENTS SHALL COME OR MAY CONCERN

GREETING: Know Ye, That Newburger, Loeb & Co., Inc., corporation organized and existing under the laws of the State of Delaware for and in consideration of the sum of One ($1.00) Dollar lawful money of the United States of America to it in hand paid by the persons listed on Schedule A annexed hereto ("Schedule A Persons") the receipt whereof is hereby acknowledged, have remised, released, and forever discharged and by these presents does for itself and its successors and assigns, remise, release and forever discharge the said Schedule A Persons, their heirs, executors, administrators, successors and assigns of and from all, and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckoning, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims and demands whatsoever, in law, in admiralty, or in equity, which against them, it ever had, now has or which it, its successors or its assigns hereafter can, shall or may have for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of the date of these presents, except for the obligations relating to the Agreement dated as of the 31st day of December 1970 between Newburger, Loeb & Co., Inc., and Newburger, Loeb & Co., and the documents executed in connection therewith and collateral thereto.

This release may not be changed orally.

IN WITNESS WHEREOF, the undersigned, under the authority

DEFENDANTS' EXHIBIT Y,
Item No. 20.

of the Board of Directors of Newburger, Loeb & Co., Inc., has set his hand and its seal on behalf of said Newburger, Loeb & Co., Inc.

NEWBURGER, LOEB & CO., INC.

[Seal]

By Laurence J. Berkowitz, VP

DEFENDANTS' EXHIBIT Y,
Item No. 20.

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SCHEDULE A

Andrew M. Newburger
Robert L. Newburger
Leo Stern
Robert L. Stern
Richard D. Stern
Edward R. Holt
William McGovern
Harold J. Richards
Sanford Roggenburg
Edward Rubin
Julius Schnall

Ella L. Newburger, Andrew M. Newburger, Robert L. Newburger, and Donald L. Newborg, as Executors of and Trustees under the Last Will and Testament of Lester M. Newburger, Deceased

May U. Newburger, and George B. Levy, as Executors of and Trustees under the Last Will and Testament of Morris Newburger, Deceased (a limited partner as of November 30, 1970)

Gerald N. Frank
Willard S. Irle
Jack Wachs
Saul A. Brown
Joseph W. Quarte
Philip Shulman
Ned Frank
Fred Kayne
Adolphus Roggenburg
John F. Settel
Charles Sloane

DEFENDANTS' EXHIBIT Y, Item No. 21.

INDEMNIFICATION AGREEMENT

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AGREEMENT made as of this 11th day of February, 1971, between Newburger Loeb & Co., Inc., a Delaware corporation (hereinafter the "Company") and Albert Dworkin, Milton Lobel, Irving Lobel, Geza Polaty, Kinko Polaty, ~~Susan~~ Shirley P. Newburger and Betty N. Newborg (hereinafter collectively the "owners of the Subordinated Accounts")

W I T N E S S E T H :

WHEREAS, pursuant to the terms of an agreement between the Company and Newburger Loeb & Co. dated as of December 31, 1970, the owners of the Subordinated Accounts have consented to the transfer of their accounts from Newburger Loeb & Co. to the Company and have extended the termination date of the subordination agreements covering such accounts to December 31, 1972 in order that the Company may acquire the business of Newburger Loeb & Co. and continue it with the approval of the New York Stock Exchange;

NOW, THEREFORE, in consideration of the foregoing, the Company and the owners of the Subordinated Accounts agree as follows:

1. The Company will indemnify and hold harmless each of the owners of the Subordinated Accounts against any losses, claims, damages or liabilities, joint or several, to which the owners of the Subordinated Accounts may become subject at common law or otherwise by reason of

the assertion that (i) said transfer was in violation of any provision of the subordination agreement, (ii) any portion of such accounts may have been repaid to such owner as a result of the transfer thereof to the Company or (iii) said transfer was in derogation of the rights of any creditor of Newburger Loeb & Co.

2. The Company will reimburse the owners of the Subordinated Accounts for any legal or other expenses reasonably incurred by the owners of the Subordinated Accounts in connection with investigating or defending against any such claim. Within ten (10) days after receipt by any owner of a Subordinated Account a notice of any claim or the commencement of any action or proceeding in respect of his Subordinated Account, the owner of the Subordinated Account shall notify the Company in writing thereof; provided, however, that the omission so to notify the Company shall relieve the Company from any liability which the Company may have to any owner of a Subordinated Account other than under this agreement.

3. No owner of a Subordinated Account shall be entitled to enforce any right of indemnity hereunder against the Company with respect to any amount due under any settlement unless the Company shall approve such settlement, which approval shall not be unreasonably withheld.

DEFENDANTS' EXHIBIT Y,
Item No. 21.

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IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed as of the 11th day of February, 1971.

NEWBURGER LOEB & CO., INC.

By _____
President

_____
Albert Dworkin

MILTON LOBEL
By Albert Dworkin, Atty
Milton Lobel

IRVING LOBEL
By Albert Dworkin, Atty
Irving Lobel

Geza Polaty
By Ned D Frank, atty
Geza Polaty

Kinko Polaty
by Ned D Frank, atty
Kinko Polaty

Shirley P. Newburger
by Robert M Newburger, attorney in fact
~~Susan~~ SHIRLEY P. Newburger

_____
Betty N. Newborg

By Horace L. Lexton
attorney-in-fact

DEFENDANTS' EXHIBIT Y,
Item No. 22.

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February 11, 1971

Ella L. Newburger, Andrew M. Newburger,
Robert L. Newburger, and Donald L. Newborg,
as Executors of and Trustees under the
Last Will and Testament of Lester M. New-
burger, Deceased; May U. Newburger and
George B. Levy, as Executors of and Trustees
under the Last Will and Testament of Morris
Newburger, Deceased; Gerald N. Frank; Willard
S. Irle; Jack Wachs; Saul A. Brown; Joseph W.
Quarte; and Philip Shulman:

Dear Sirs:

In order to induce you to enter into the reor-
ganization agreement pursuant to which the assets of
Newburger, Loeb & Co., a partnership, are being trans-
ferred to the undersigned, and to accept for your interest
in the said partnership, notes and preferred stock of the
undersigned as set forth in the reorganization agreement,
we hereby agree to indemnify you and each of you and save
you harmless against any liability, cost or expense, in-
cluding reasonable attorneys' fees, that you may suffer
or incur if any creditors of the partnership of Newburger,
Loeb & Co., now existing or who may now have any rights
or claims against said partnership and who shall have not
been paid in full by the undersigned (whether or not the
undersigned has assumed the obligation to pay such creditors
in the reorganization agreement), assert and establish any
claims against you or any of you by reason of the notes
and preferred stock that you are receiving from the under-
signed as aforesaid.

Very truly yours,

NEWBURGER, LOEB & CO., INC.

By [signature] V.P.

DEFENDANTS' EXHIBIT Y,
Item No. 23.

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NEWBURGER, LOEB & CO., INC.
5 Hanover Square
New York, New York

February 11, 1971

Messrs. Robert Steefel,
Arthur Richenthal and
Daniel Eisenberg
c/o Robert Steefel, Esq.
Stroock & Stroock & Lavan
61 Broadway
New York, New York

Gentlemen:

This letter is addressed to you as representatives of the Limited Partners of Newburger, Loeb & Co., and is to confirm our agreement, that, at any time subsequent to the closing of the transactions contemplated by the Agreement dated December 31, 1970, between us and Newburger, Loeb & Co., we, without the prior approval of any two of you, shall not enter into any settlement of the claims we have against Charles Gross which involves either the payment of cash or the issuance of securities or obligations which are in any way senior in maturity or lien to the Subordinated Convertible Notes and the Series A Preferred Stock received upon the closing under the aforesaid agreement by the Limited Partners.

Very truly yours,

NEWBURGER, LOEB & CO., INC.

By: Lawrence J. Bartanus VP

DEFENDANTS' EXHIBIT Y,
Item No. 24.

Employment Agreements between Transferee and Paul Risher, Robert Muh, Fred Kayne and Andrew Newburger.

EMPLOYMENT AGREEMENT made and entered into as of the 11th day of February, 1971, by and between NEWBURGER, LOEB & CO., INC. (the "Employer"), a Delaware corporation, and ANDREW M. NEWBURGER (the "Employee").

W I T N E S S E T H :

WHEREAS, the Employer desires to employ the Employee, and the Employee desires to be employed by the Employer, upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing premises and of the mutual covenants hereinafter contained, the parties hereto hereby agree as follows:

FIRST: The Employer employs the Employee as a registered representative of the Employer for the period (the "Employment Period") commencing on the date of this Employment Agreement and terminating on February 28, 1973, unless sooner terminated as hereinafter provided, it being understood that the Employer shall not have the right to discharge the Employee from its employ for any reason whatsoever other than his willful misfeasance. The Employee accepts such employment, agrees to perform such services reasonably consistent with his duties as such a registered representative and agrees diligently to devote his entire business time, skill and attention to such services, provided, that the Employee shall not be required to perform any services for the Employer during reasonable vacation periods and during periods of illness.

SECOND: The Employer shall pay to the Employee, and the Employee shall accept from the Employer, as compensation for the Employee's services during the Employment Period, commissions and fees on all securities transactions on accounts handled by the Employee, computed at the highest rate then paid by the Employer to registered representatives in its employ, payable in accordance with the Employer's customary payroll policy. As an advance against such commissions and fees, the Employer shall pay to the Employee, and the Employee shall accept from the Employer, (i) an advance payment in the amount of $1,000, payable on or prior to February 28, 1971, on account of such commissions and fees to be earned by the Employee as aforesaid during the period commencing on the date hereof and ending on February 28, 1971, and (ii) an advance payment in the amount of $2,000 per month, payable on or about the 15th day and the last day of each month during the Employment Period, commencing on or about the 15th day of March, 1971. The Employer shall not be required to make any advance payment to the Employee

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pursuant to the provisions of the second sentence of this Article SECOND which shall exceed the excess of $10,000 over the amount of commissions and fees payable by the Employer to the Employee pursuant to the provisions of the first sentence of this Article SECOND. Nothing herein contained shall prevent the Employer from paying to the Employee such additional and other compensation from time to time during the Employment Period. The Employee shall be entitled to participate, on the same basis, subject to the same qualifications, as other registered representatives employed by the Employer in any pension, profit-sharing, life insurance, health insurance, hospitalization or other plan in effect with respect to such employees.

THIRD: The Employer agrees that it will make all payments required to be made by it to the Employee hereunder when and as the same shall become due and payable and that it will duly and punctually perform and comply with all other agreements on its part to be performed or complied with hereunder without any deduction, set-off or counterclaim of any kind or nature whatsoever which it may have against the Employee with respect to or arising out of or in connection with any matter occurring or alleged to have occurred on or prior to the date of this Employment Agreement, including, without in any manner limiting the generality of the foregoing, any action or alleged action taken or any omission or alleged omission by the Employee in his individual capacity or on behalf of Newburger, Loeb & Co., a New York limited partnership, and any obligation of the Employee under a certain Agreement, dated as of December 31, 1970, by and between the Employer and said Newburger, Loeb & Co.

FOURTH: All communications hereunder shall be in writing and shall be sent by registered or certified mail, return receipt requested; if intended for the Employer, shall be addressed to it, attention of its President, at 5 Hanover Square, New York, New York 10004, or at such other address of which the Employer shall have given notice to the Employee in the manner herein provided; and if intended for the Employee, shall be addressed to him at 1120 Park Avenue, New York, New York 10028, or at such other address of which the Employee shall have given notice to the Employer in the manner herein provided.

FIFTH: The Employee may at any time terminate his employment by the Company by giving at least ten days' prior written notice to such effect to the Company, at which time Employee's compensation hereunder shall terminate. Employee shall not be required to repay any prior advances, however.

SIXTH: In the event of the Employee's death during the Employment Period, this Employment Agreement shall terminate forthwith, but the Employer shall pay to the executors or administrators of the Employee's estate the compensation to which

Def't Ex 517 (for I.D.)

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he otherwise would have been entitled hereunder to the last day of the month in which his death shall have occurred.

SEVENTH: This Employment Agreement constitutes the entire understanding between the parties, and no waiver or modification of the terms hereof shall be valid unless in writing signed by the party to be charged and only to the extent therein set forth.

EIGHTH: This Employment Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

NINTH: This Employment Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, administrators, executors, successors and assigns; provided, however, that this Employment Agreement may not be assigned by either of the parties hereto.

TENTH: This Employment Agreement may be executed in one or more counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, each of the parties hereto has executed this Employment Agreement the day and year first above written.

NEWBURGER, LOEB & CO., INC.

By Paul D. Fisher
President

Andrew M. Newburger

EMPLOYMENT AGREEMENT E 572

AGREEMENT made as of the 11th day of February 1971, by and between Newburger, Loeb & Co., Inc. a corporation organized and existing under and by virtue of the laws of the State of Delaware, having an office at 5 Hanover Square, New York, New York (hereinafter referred to as the "Company") and Paul Risher residing at 22 Pheasant Lane, Stamford, Connecticut (hereinafter referred to as the "Employee").

W I T N E S S E T H :

WHEREAS, the Company is desirous of employing the Employee in the capacity hereinafter stated, and the Employee is desirous of entering into the employ of the Company in such capacity for the period and on the terms and conditions set forth herein:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions herein contained, the parties hereto do hereby agree as follows:

1. Introduction: The Company hereby employs the Employee and the Employee hereby accepts employment with the Company upon the terms and conditions herein contained.

2. Term: The Employee shall be employed by the Company for a period commencing February 11, 1971 and ending at the close of business on December 31, 1972. If at any time during the term of this Agreement, the Employee shall be discharged for cause by the Board of Directors and/or stockholders of the Company, this Employment Agreement shall terminate as of this date of discharge.

3. Compensation:

(a) For services to be rendered hereunder and during the term hereof, the Company agrees to pay and the Employee agrees to accept as full and complete compensation for each year this Agreement is in effect commencing the date hereof, the greater of (i) a fixed salary at the rate of $35,000 per annum payable in installments in accordance with the prevailing payroll practices of the Company, or (ii) commissions at the rate then generally paid to registered representatives on new ~~accounts~~ business obtained by the Employee on or after the date of this Agreement.

PDR

(b) In addition, the Board of Directors of the Company may grant additional compensation to the Employee; provided, however, that the aggregate of all compensation paid to

Paul Risher and Robert Muh in any fiscal year shall not exceed 16% of the Company's net profits in such year (computed without giving effect to the deduction of such compensation); and provided further, that no additional compensation shall be granted to the Employee if the Company is in default with respect to any payment of interest on its Subordinated Convertible Notes due December 31, 1974 or any payment of interest on its Subordinated Accounts or the Company has failed to declare and pay any dividend due on its Series A Convertible Preferred Stock.

4. Duties: During the term of employment hereunder, Employee shall be employed as a senior executive officer, shall perform his services to the satisfaction and at the pleasure of the Board of Directors and Stockholders of the Company, shall devote his full time and efforts to the business affairs of the Company and shall perform such other service consistent with his position as may be assigned to him by the Board of Directors of the Company. Employee hereby consents to serve as an officer and/or director of the Company or any subsidiary or affiliate without any additional salary or compensation. The Employee shall be entitled to a reasonable vacation period.

5. Working Facilities: The Employee shall be furnished such facilities and services as are suitable to his position and adequate for the performance of his duties hereunder.

6. Illness or Incapacity: If on account of physical or mental disability, Employee shall fail or be unable to perform the services required pursuant to this Agreement for a continuous period of six (6) consecutive months or for a aggregate of six (6) months during any twelve (12) month period, the Company may, at its option, thereafter terminate this Agreement upon written notice to Employee, and upon the giving of such notice, employment hereunder shall be terminated. Until the Company shall have terminated Employee's employment pursuant to this Agreement in accordance with the foregoing, Employee shall be entitled to receive his full salary notwithstanding any such physical or mental disability.

7. Death of Employee: Upon the death of Employee during the period of his employment, this Agreement shall automatically terminate.

8. Covenant Not to Compete: Employee shall devote his best efforts, skills and attention exclusively to the affairs of the Company, and shall serve the Company diligently and to the best of his ability. Employee shall not, for the term of this Agreement, either directly or indirectly be employed by, or be interested in, any other person, firm or corporation, except that he may own minority interests in other publicly-held businesses.

PDR

9. Enforceability of Contract: The Employee acknowledges that the services to be rendered under the provisions of this Agreement are of a special, unique and extraordinary character and that it would be difficult or impossible to replace such services and that by reason thereof, the Employee agrees and consents that if he violates any of the provisions of this Agreement, the Company, in addition to any other rights and remedies available under this Agreement or otherwise, shall be entitled to an injunction, restraining the Employee from committing or continuing any violation of this Agreement.

10. Assignment: This Agreement and all rights hereunder are personal to Employee and shall not be assignable, any any purported assignment shall not be vaild and binding on the Company. The Company may assign this Agreement and all of its rights hereunder to any person, firm or corporation succeeding to its business, provided said Company shall assume (by contract or operation of law) the obligations of the Company, including the Company's obligations hereunder.

11. Entire Agreement: This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof, and merges and supercedes all prior discussions, agreements and understandings of every and any nature between them, and neither party shall be bound by

any condition, definition, warranty or representation other than expressly set forth or provided for in this Agreement, or as may be, on or subsequent to the date hereof, set forth in writing and signed by the party to be bound thereby, and this Agreement may not be changed, modified or terminated except by an agreement in writing signed by all of the parties hereto.

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12. Governing Law: This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

13. Captions: All captions and headings in this Agreement are solely for convenience in locating its various provisions, and shall not be construed or referred to in resolving any questions, interpretations or construction.

14. Parties in Interest: The terms and provisions of this Agreement shall bind and inure to the benefit of and be enforceable by the Employee and his heirs, executors, legal representatives and assigns, and by the Company and its successors in interest and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Attest:

NEWBURGER, LOEB & CO., INC.

By Lawrence J. Barbato V.P.

Witness: Michael A. Bamberger

Paul Risher

Paul Risher

EMPLOYMENT AGREEMENT

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AGREEMENT made as of the 11th day of February 1971, by and between Newburger, Loeb & Co., Inc. a corporation organized and existing under and by virtue of the laws of the State of Delaware, having an office at 5 Hanover Square, New York, New York (hereinafter referred to as the "Company") and Robert Muh residing at 200 East End Avenue, New York, N.Y., (hereinafter referred to as the "Employee").

W I T N E S S E T H :

WHEREAS, the Company is desirous of employing the Employee in the capacity hereinafter stated, and the Employee is desirous of entering into the employ of the Company in such capacity for the period and on the terms and conditions set forth herein:

NOW, THEREFORE, in consideration of the premises, and of the mutual covenants and conditions herein contained, the parties hereto do hereby agree as follows:

1. Introduction: The Company hereby employs the Employee and the Employee hereby accepts employment with the Company upon the terms and conditions herein contained.

2. Term: The Employee shall be employed by the Company for a period commencing February 11, 1971 and ending at the close of business on December 31, 1972. If at any time during the term of this Agreement, the Employee shall be discharged for cause by the Board of Directors and/or stockholders of the Company, this Employment Agreement shall terminate as of this date of discharge.

3. Compensation:

(a) For services to be rendered hereunder and during the term hereof, the Company agrees to pay and the Employee agrees to accept as full and complete compensation for each year this Agreement is in effect commencing the date hereof, the greater of (i) a fixed salary at the rate of $35,000 per annum payable in installments in accordance with the prevailing payroll practices of the Company, or (ii) commissions at the rate then generally paid to registered representatives on new ~~accounts~~ business obtained by the Employee on or after the date of this Agreement.

(b) In addition, the Board of Directors of the Company may grant additional compensation to the Employee; provided, however, that the aggregate of all compensation paid to

Paul Risher and Robert Muh in any fiscal year shall not E 580 exceed 16% of the Company's net profits in such year (computed without giving effect to the deduction of such compensation); and provided further, that no additional compensation shall be granted to the Employee if the Company is in default with respect to any payment of interest on its Subordinated Convertible Notes due December 31, 1974 or any payment of interest on its Subordinated Accounts or the Company has failed to declare and pay any dividend due on its Series A Convertible Preferred Stock.

4. Duties: During the term of employment hereunder, Employee shall be employed as a senior executive officer, shall perform his services to the satisfaction and at the pleasure of the Board of Directors and Stockholders of the Company, shall devote his full time and efforts to the business affairs of the Company and shall perform such other service consistent with his position as may be assigned to him by the Board of Directors of the Company. Employee hereby consents to serve as an officer and/or director of the Company or any subsidiary or affiliate without any additional salary or compensation. The Employee shall be entitled to a reasonable vacation period.

5. Working Facilities: The Employee shall be furnished such facilities and services as are suitable to his position and adequate for the performance of his duties hereunder.

6. Illness or Incapacity: If on account of physical or mental disability, Employee shall fail or be unable to perform the services required pursuant to this Agreement for a continuous period of six (6) consecutive months or for a aggregate of six (6) months during any twelve (12) month period, the Company may, at its option, thereafter terminate Agreement upon written notice to Employee, and upon the giving of such notice, employment hereunder shall be terminated. Until the Company shall have terminated Employee's employment pursuant to this Agreement in accordance with the foregoing, Employee shall be entitled to receive his full salary notwithstanding any such physical or mental disability.

7. Death of Employee: Upon the death of Employee during the period of his employment, this Agreement shall automatically terminate.

8. Covenant Not to Compete: Employee shall devote his best efforts, skills and attention exclusively to the affairs of the Company, and shall serve the Company diligently and to the best of his ability. Employee shall not, for the term of this Agreement, either directly or indirectly be employed by, or be interested in, any other person, firm or corporation, except that he may own minority interests in other ~~publicly-held~~ businesses.

9. Enforceability of Contract: The Employee acknowledges that the services to be rendered under the provisions of this Agreement are of a special, unique and extraordinary character and that it would be difficult or impossible to replace such services and that by reason thereof, the Employee agrees and consents that if he violates any of the provisions of this Agreement, the Company, in addition to any other rights and remedies available under this Agreement or otherwise, shall be entitled to an injunction, restraining the Employee from committing or continuing any violation of this Agreement.

10. Assignment: This Agreement and all rights hereunder are personal to Employee and shall not be assignable, any any purported assignment shall not be vaild and binding on the Company. The Company may assign this Agreement and all of its rights hereunder to any person, firm or corporation succeeding to its business, provided said Company shall assume (by contract or operation of law) the obligations of the Company, including the Company's obligations hereunder.

11. Entire Agreement: This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof, and merges and supercedes all prior discussions, agreements and understandings of every and any nature between them, and neither party shall be bound by

any condition, definition, warranty or representation other than expressly set forth or provided for in this Agreement, or as may be, on or subsequent to the date hereof, set forth in writing and signed by the party to be bound thereby, and this Agreement may not be changed, modified or terminated except by an agreement in writing signed by all of the parties hereto.

12. Governing Law: This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

13. Captions: All captions and headings in this Agreement are solely for convenience in locating its various provisions, and shall not be construed or referred to in resolving any questions, interpretations or construction.

14. Parties in Interest: The terms and provisions of this Agreement shall bind and inure to the benefit of and be enforceable by the Employee and his heirs, executors, legal representatives and assigns, and by the Company and its successors in interest and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Attest:

NEWBURGER, LOEB & CO., INC.

By Lawrence J. Bierlaire V.P.

Witness:

Robert Muh

Litt Ex 57(hh-I)
12 C
11/10/72

EMPLOYMENT AGREEMENT

E 584

AGREEMENT made as of the 11th day of February 1971, by and between Newburger, Loeb & Co., Inc. a corporation organized and existing under and by virtue of the laws of the State of Delaware, having an office at 5 Hanover Square, New York, New York (hereinafter referred to as the "Company") and Fred Kayne residing at (hereinafter referred to as the "Employee").

W I T N E S S E T H :

WHEREAS, the Company is desirous of employing the Employee in the capacity hereinafter stated, and the Employee is desirous of entering into the employ of the Company in such capacity for the period and on the terms and conditions set forth herein:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions herein contained, the parties hereto do hereby agree as follows:

1. Introduction: The Company hereby employs the Employee and the Employee hereby accepts employment with the Company upon the terms and conditions herein contained.

2. Term: The Employee shall be employed by the Company for a period commencing February 11, 1971 and ending at the close of business on December 31, 1972. If at any time during the term of this Agreement, the Employee shall be discharged for cause by the Board of Directors and/or stockholders of the Company, this Employment Agreement shall terminate as of this date of discharge.

3. Compensation:

(a) The Company agrees to pay and the Employee agrees to accept as full and complete compensation for services to be rendered hereunder and during the term hereof commissions at the rate then generally paid to registered representatives.

4. Duties: During the term of employment hereunder, Employee shall be employed as a senior executive officer, shall perform his services to the satisfaction and at the pleasure of th Board of Directors and Stockholders of the Company, shall devote h full time and efforts to the business affairs of the Company and shall perform such other service consistent with his position as may be assigned to him by the Board of Directors of the Company. Employee hereby consents to serve as an officer and/or director of the Company or any subsidiary or affiliate

without any additional salary or compensation. The Employee shall be entitled to a reasonable vacation period. E 586

5. Working Facilities: The Employee shall be furnished such facilities and services as are suitable to his position and adequate for the performance of his duties hereunder.

6. Illness or Incapacity: If on account of physical or mental disability, Employee shall fail or be unable to perform the services required pursuant to this Agreement for a continuous period of six (6) consecutive months or for a aggregate of six (6) months during any twelve (12) month period, the Company may, at its option, thereafter terminate this Agreement upon written notice to Employee, and upon the giving of such notice, employment hereunder shall be terminated. Until the Company shall have terminated Employee's employment pursuant to this Agreement in accordance with the foregoing, Employee shall be entitled to receive his full salary notwithstanding any such physical or mental disability.

7. Death of Employee: Upon the death of Employee during the period of his employment, this Agreement shall automatically terminate.

8. Covenant Not to Compete: Employee shall devote his best efforts, skills and attention exclusively to the affairs of the Company, and shall serve the Company diligently

and to the best of his ability. Employee shall not, for the term of this Agreement, either directly or indirectly be employed by, or be interested in, any other person, firm or corporation, except that he may own minority interests in other ~~publicly-held~~ businesses. E 587

9. Enforceability of Contract: The Employee acknowledges that the services to be rendered under the provisions of this Agreement are of a special, unique and extraordinary character and that it would be difficult or impossible to replace such services and that by reason thereof, the Employee agrees and consents that if he violates any of the provisions of this Agreement, the Company, in addition to any other rights and remedies available under this Agreement or otherwise, shall be entitled to an injunction, restraining the Employee from committing or continuing any violation of this Agreement.

10. Assignment: This Agreement and all rights hereunder are personal to Employee and shall not be assignable, any any purported assignment shall not be vaild and binding on the Company. The Company may assign this Agreement and all of its rights hereunder to any person, firm or corporation succeeding to its business, provided said Company shall assume (by contract or operation of law) the obligations of the Company, including the Company's obligations hereunder.

11. Entire Agreement: This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof, and merges and supercedes all prior discussions, agreements and understandings of every and any nature between them, and neither party shall be bound by any condition, definition, warranty or representation other than expressly set forth or provided for in this Agreement, or as may be, on or subsequent to the date hereof, set forth in writing and signed by the party to be bound thereby, and this Agreement may not be changed, modified or terminated except by an agreement in writing signed by all of the parties hereto.

12. Governing Law: This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

13. Captions: All captions and headings in this Agreement are solely for convenience in locating its various provisions, and shall not be construed or referred to in resolving any questions, interpretations or construction.

14. Parties in Interest: The terms and provisions of this Agreement shall bind and inure to the benefit of and be enforceable by the Employee and his heirs, executors,

legal representatives and assigns, and by the Company and its successors in interest and assigns.

E 589

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Attest:

NEWBURGER, LOEB & CO., INC.

By Lawrence J. Bartlett V.P.

Witness:
Michael A. Bamberger

Fred Kayne
Fred Kayne

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DEFENDANTS' EXHIBIT Y,
Item No. 25.

25

E 590

DEFENDANTS' EXHIBIT Y, Item No. 25.

AGREEMENT made the 11th day of February, 1971, by NEWBURGER, LOEB & CO., INC., a Delaware corporation (hereinafter referred to as the "Corporation") and the undersigned stockholder thereof who holds the class of shares in the amount thereof set forth across from his signature with the New York Stock Exchange.

It is agreed as follows:

1. The undersigned stockholder agrees with the Corporation and the New York Stock Exchange to be bound by the provisions of Article VI of the Corporation's Certificate of Incorporation with respect to the restrictions on the transfer of shares of the Corporation's stock held by the undersigned and with respect to the prior rights of purchase of the undersigned's shares of stock, and the undersigned further agrees that so long as the Corporation continues as a member corporation of the New York Stock Exchange, the undersigned will not dispose of the shares of stock in the Corporation in violation of Article VI and will not transfer, sell, assign, pledge or otherwise create or permit to be created any lien, charge or encumbrance upon his shares of stock in the Corporation without the prior written approval of the New York Stock Exchange.

2. The Corporation and the undersigned stockholder agree with the New York Stock Exchange that if any of the shares of stock in the Corporation held by the undersigned stockholder should be acquired, held or owned, at any time, by a person not approved by the New York Stock Exchange, other than the executors, administrators or legal representatives of the undersigned stockholder, for such period as may be allowed by the New York Stock Exchange or if the undersigned stockholder should violate this

DEFENDANTS' EXHIBIT Y,
Item No. 25.

E 591

Agreement, the Corporation may be deprived by the New York Stock Exchange of its privileges as a member corporation.

IN WITNESS WHEREOF, the Corporation and the undersigned stockholder have executed this Agreement as of the date first above written.

NEWBURGER, LOEB & CO., INC.

By Lawrence J. Bernheim V.P.

Class of Shares	No. of Shares
Non-Voting Common	2,600

Shirley P. Newburger
by Arthur H. Newburger, Attorney-in-fact
(Stockholder)

DEFENDANTS' EXHIBIT Y,
Item No. 25.

E 592

In addition to the document reproduced herein, Item #25 includes a series of identical Agreements made the 11th day of February, 1971, executed by the following persons:

Irving Lobel
Milton Lobel
Adolphus Roggenburg
Robert Muh
Paul D. Risher
Ned D. Frank
Lawrence Berkowitz
Estate of Lester M. Newburger
Albert Dworkin
Fred Kayne
Charles Sloane
Richard D. Stern
May U. Newburger and George B. Levy, as executors of and trustees under the Will of Morris Newburger, deceased
Robert Newburger
Joseph W. Quarte
Angel M. Aixala
William A. McGovern
Jack Wachs
Willard S. Irle
Betty N. Newborg
Gerald Frank
Edward Halt
Leo Stern

DEFENDANTS' EXHIBIT Y,
Item No. 26.

E 593

SENIOR SUBORDINATION AGREEMENT

AGREEMENT between Angel M. Aixala (hereinafter called the "Customer") and Newburger, Loeb & Co., Inc. (hereinafter called the "Firm").

WHEREAS, pursuant to an agreement dated December 31, 1970 between the Firm and Newburger, Loeb & Co., a limited partnership, the Customer has deposited 8,000 shares of the common stock of Baccardi Corp. in an account with the Firm.

NOW, THEREFORE, in consideration of the sum of One Dollar ($1.00) this day to Customer in hand paid by the Firm and for other good and valuable considerations, the receipt of which is hereby acknowledged, the Customer does hereby irrevocably agree for himself, his heirs, executors, administrators, legal representatives and assigns as follows:

1. The Customer subordinates and hereby irrevocably does subordinate any and all claims with respect to said account (whether for money, securities, other property, or interests therein) which he, as owner, creditor or otherwise, may now or at any time hereafter have against the Firm to the claims of all other present and future creditors of the Firm arising out of any matters occurring prior to December 31, 1973, and the Customer, for himself, his heirs, executors, administrators and assigns,

does hereby waive with respect to the account any and all present or future rights of reclamation or repossession and any and all rights to participate or share ratably or otherwise with any present or future creditors of the Firm in the distribution of the assets of the Firm on liquidation thereof, whether said liquidation be voluntary or involuntary, until all such claims of all other creditors have been fully satisfied or provisions have been made therefor and any such securities or other property may be used, pledged, sold disposed of or transferred or otherwise treated by the Firm as its property, and such cash, securities and other property or the proceeds of sale thereof may be applied by the Firm to the claims of all other creditors of the Firm as fully to all intents and purposes as though the same were the Firm's property. If the securities, other property or interests in the account are sold, transferred or disposed of by the Firm or by anyone to whom such securities or other property have been pledged, the Customer shall have a contract claim against the Firm for the return of like securities or property to the same extent he would have had he loaned the securities or other property to the Firm at the time of sale, but such contract claim shall be and remain subordinated to the claims of all other creditors as above provided.

2. The Customer shall be entitled to receive all interest and dividends, whether in cash or stock, and all other income from the securities deposited in the account and may withdraw all such income credited to the account. The Customer may substitute in the account either money or other securities or other property having equal market value and equal net capital value for the securities withdrawn upon five (5) business days notice to the Firm. The Customer, however, agrees that until December 31, 1973, he will not withdraw any cash, securities or other property from the account without the prior written consent of a duly authorized officer of the Firm who is a holder of the voting stock thereof and that such consent cannot be given without six (6) months prior notice to, and approval of, the New York Stock Exchange, and if any such withdrawal (whether with or without such consent) is made on or prior to the said date and if at the time of any such withdrawal the Firm was insolvent the Customer agrees (whether or not he had any knowledge or notice of such insolvency at the time of any such withdrawal) to repay and return to the Firm, its successors and assigns, all money, securities or other property so withdrawn, for the benefit of all other creditors of the Firm; provided, however, that any suit for the recovery of such withdrawal must be commenced within one year of the date of such withdrawal. The Customer further agrees that if he intends to renew the account, he shall give six (6) months prior written

notice of renewal to the Firm with a copy to the New York Stock Exchange, Department of Member Firms; and that the giving of such notice shall act as a renewal of the account. The Customer and the Firm agree that a copy of any notice given under this paragraph 2 shall be sent by the Firm to the holders of the Firm's Subordinated Convertible Notes issued pursuant to the aforesaid agreement dated December 31, 1970.

3. In the event that the aggregate net losses of the Firm from operations shall be in excess of $350,000 for any period of four consecutive calendar months or less prior to January 1, 1974, or until the account has been terminated pursuant to the provisions hereof, whichever first occurs, or shall be in excess of $600,000 for any fiscal year ending prior to January 1, 1974, or until the account has been terminated pursuant to the provisions hereof, whichever first occurs, either (a) the customers representing a majority of the aggregate dollar amount (as measured by the amount of cash or the value of securities, other property or interests therein) of all subordinated accounts of the Firm subject to the Subordinated Account Agreements or (b) the customers representing a majority of such dollar amount subject to the Senior Subordinated Agreement, or (c) the holders representing a majority of the aggregate principal amount then outstanding of the Firm's Subordinated Convertible Notes all of even date herewith entered into or issued, respectively, pursuant to an agreement dated

December 31, 1970 between the Firm and Newburger, Loeb & Co., a limited partnership, acting separately, shall have the option, exercisable as hereinafter provided, to require the Firm to liquidate; provided, however, that the option granted in this paragraph 3 shall not be exercisable if the net worth of the Firm is greater than $750,000. The option shall be exercisable by the customers of a majority of the aggregate dollar amount of the subordinated accounts or Subordinated Convertible Notes, as defined above, giving written notice within thirty days after the end of any applicable period, such notice to be addressed to the Firm at its principal place of business. In the event that this option is exercised, the stockholders, directors and appropriate officers of the Firm shall immediately take any and all action necessary or otherwise required to effect a liquidation of the Firm.

4. The Firm agrees that, as soon as available, the Customer shall receive a balance sheet and profit and loss statement of the Firm dated as at the Closing Date under the aforesaid agreement dated December 31, 1970 and that not later than the 25th day of each month during the period commencing the date of this Agreement and ending January 1, 1974,or until the account has been terminated pursuant to the provisions hereof, whichever first occurs, the Customer shall receive from the Firm a balance sheet and a profit and loss statement for the preceding month; and that not later than the 25th day after the end of each fiscal year ending between the date of this Agreement and prior to January 1, 1974, or until the account has been termina[illegible]

pursuant to the provisions hereof, whichever first occurs, the Customer shall receive from the Firm a balance sheet and a profit and loss statement for the fiscal year then ended.

5. The Firm agrees that until December 31, 1973, it shall not declare or pay, or set apart any funds for the payment of, any dividends (other than regular dividends on its Series "A" Preferred Stock and its 5% Convertible Preferred Stock, par value $100 per share) on any shares of capital stock of any class of the Firm, or apply any of its funds, property or assets to, or set apart any funds, property or assets for, the purchase, redemption or other retirement of, or make any other distribution, by reduction of capital or otherwise, in respect of any shares of any class of capital stock of the Firm.

6. The Firm agrees to credit to the account quarterly interest at the rate of 4% per annum on the market value of securities, and 2% per annum over the prime rate of Chemical Bank on cash. Default by the firm in crediting interest as aforesaid shall not affect the provisions of this agreement subordinating the Customer's claims with respect to said account or accounts.

7. The term the "Firm" as used herein shall mean not only the Firm as now constituted but also any successor or assigns of the Firm. This agreement shall be binding upon the Customer, his heirs, executors, administrators, successors and assigns.

8. This agreement is made for the benefit of the creditors of the Firm and shall be effective from the date

approved by the New York Stock Exchange.

9. The subordination of Customer's account is not being made in reliance upon the standing of the Firm as a member organization of the New York Stock Exchange or upon the New York Stock Exchange's surveillance of the Firm or its capital position. The Customer has made such investigation of the Firm and its officers, directors and shareholders as the Customer deems necessary and appropriate under the circumstances and examination of the pro forma financial statements dated ~~January~~ December 31, 1970 and a pro forma computation of its net capital prepared by the Firm dated Janaury 29, 1971. The Customer is not relying upon the New York Stock Exchange to provide any information concerning or relating to the Firm and agrees that the New York Stock Exchange has no responsibility to disclose to the Customer any information concerning or relating to the Firm which it may now or at any future time have. The Customer agrees for himself and his heirs, executors, administrators, legal representatives and assigns that neither the New York Stock Exchange, its Special Trust fund nor any governor, officers, trustees or employees of the New York Stock Exchange or its Special Trust Fund shall be liable to the Customer with respect to the subordination of the Customer's account or the repayment to the Customer of any money, securities or any property or interest therein in any account.

10. The Customer hereby affirms the fact that all the property subject to this Agreement is free and clear of any lien,

charge or encumbrance at the present time, except the lien of this Agreement, and the Customer agrees that should any such property become subject to any lien, charge or encumbrance, except the lien of this Agreement, prior to the return of such property, the Customer will promptly notify the Firm of the facts thereof. It is understood that upon receipt of any such notice, the New York Stock Exchange will be so informed.

11. Upon executing this Agreement, the Customer certifies that none of the securities subordinated under this Agreement will be "control" stock under the Securities Act of 1933, as amended, nor are they or will they be restricted as to sale in any other manner.

12. This instrument embodies the entire agreement of subordination. This agreement may not be modified without the prior written consent of the New York Stock Exchange.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this 11th day of February, 1971.

NEWBURGER, LOEB & CO., INC.

By Lawrence J. Bershtein V.P.

Angel M. Aisles by
Robert S. Pasley as attorney in fact L.S.

DEFENDANTS' EXHIBIT Y,
Item No. 26.

E 601

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

On this 11th day of February, 1971, before me personally came Robert S. Persky, to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Michael A. Bamberger

MICHAEL A. BAMBERGER
Notary Public, State of New York
No. 31-5165100
Qualified in New York County
Commission Expires March 30, 1972

DEFENDANTS' EXHIBIT Y, 1.71 27
Item No. 27.

E 602

SUBORDINATED ACCOUNT AGREEMENT

AGREEMENT between GEZA and KINKO POLATY (hereinafter called the "Customer") and Newburger, Loeb & Co., Inc. (hereinafter called the "Firm").

WHEREAS, under an agreement dated as of the 31st day of December, 1970 between the Firm and Newburger, Loeb & Co., a limited partnership, the Customer agreed and ~~expressly~~ consented to the assignment and assumption of his subordinated account with Newburger, Loeb & Co., the limited partnership, the extension of the maturity date of said subordinated account and to the amendment of other certain terms and conditions as hereinafter provided.

WHEREAS, the Customer now has a subordinated account with Newburger, Loeb & Co., the limited partnership, which is being assigned to the Firm and may hereafter have one or more accounts with the Firm (hereinafter referred to as "said account or accounts").

NOW, THEREFORE, in consideration of the sum of One Dollar ($1.00) in hand paid by the Firm to the Customer and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Customer does hereby irrevocably agree for himself, his heirs,

executors, administrators, legal representatives and assigns:

1. The Customer subordinates and hereby irrevocably does subordinate any and all claims with respect to said account or accounts (whether for money, securities, other property, or interests therein) which he, as owner, creditor or otherwise, may now or at any time hereafter have against the Firm to the claims of all other present and future creditors of the Firm arising out of any matters occurring prior to December 31, 1972 (hereinafter called "Maturity Date"), and the Customer, for himself, his heirs, executors, administrators and assigns, hereby agrees that, in the event of any receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, whether or not pursuant to bankruptcy laws, liquidation, or any other marshalling of the assets and liabilities of the Firm, the Customer shall not be entitled to participate or share, ratably or otherwise, in the distribution of the assets of the Firm until all claims of all other present and future creditors of the Firm arising out of any matter occurring prior to the Maturity Date have been fully satisfied, or provision has been made therefor. Any money, securities, other property, or interests therein, in said account or accounts may be used, pledged, sold, disposed of or transferred or otherwise treated by the Firm as its own property, except as provided in paragraph 3 below, and such money, securities, other

property, or interests therein, in said account or accounts or E 604 the proceeds of sale thereof may be applied by the Firm to the claims of all other creditors of the Firm as fully to all intents and purposes as though the same were property of the Firm. If any of the securities, other property or interests therein in said account or accounts are sold, transferred or disposed of by anyone to whom such securities, other property or interests therein have been pledged, the Customer shall have a contract claim against the Firm for the return of like securities, other property, or interests therein, to the same extent he would have had he loaned the securities, other property, or interests therein, to the Firm at the time of sale, but such contract claim shall be and remain subordinated to the claims of all other creditors as above provided.

2. The Customer shall be entitled to receive all interest and dividends, whether in cash or stock, and all other income from the securities and other property held in said account or accounts and may withdraw all such income credited to said account or accounts. The Customer may substitute in said account or accounts having equal market value and equal net capital value thereto money for securities, securities for money, securities for other securities, securities for other property, and other property for securities withdrawn upon five (5) business days notice to the Firm. The Customer, however, agrees that until the Maturity Date, he will not withdraw any money, securities, other property, or interests therein, from said account or accounts without the prior written consent of a duly authorized

officer of the Firm who is a holder of voting stock in the Firm, and that such consent cannot be given without six (6) months prior notice to, and approval of, the New York Stock Exchange, and if any such withdrawal (whether with or without such consent) is made on or prior to the Maturity Date and, if at the time of any such withdrawal, the Firm was insolvent, the Customer agrees for himself, his heirs, executors, administrators, or assigns (whether or not the Customer, his heirs, executors, administrators, or assigns had any knowledge or notice of such insolvency at the time of any such withdrawal) to repay and return to the Firm, its successors and assigns, all money, securities or other property, or interests therein, so withdrawn, for the benefit of all other creditors and senior subordinated lenders of the Firm; provided, however, that any suit for the recovery of such withdrawal must be commenced within one year of the date of such withdrawal. The Customer further agrees that if he intends to renew said account or accounts, he shall give six (6) months prior written notice of such renewal to the Firm with a copy to the New York Stock Exchange, Department of Member Firms; and that the giving of such notice shall act as renewal of said account or accounts.

3. The right of the Firm to sell securities in the account or accounts of the Customer and the obligation of the Firm to make mandatory prepayments with respect to the account or accounts of the Customer are subject to and governed by the provisions of Paragraph 9(A) subparagraphs (a) and (b) thereof, respectively, in the agreement dated December 31, 1970 between the

Firm and Newburger, Loeb & Co., the limited partnership. It is further agreed that in addition to the subordination of the Customer's account or accounts as provided for in Paragraph 1 above, the account or accounts are also subordinated upon the same terms and conditions as set forth in Paragraphs 1 and 2 above to the Senior Subordination Agreement between the Firm and Alex Aixala of even date herewith.

4. In the event that the aggregate net losses of the Firm from operations shall be in excess of $350,000 for any period of four consecutive calendar months or less prior to January 1, 1973, or until said account or accounts have been terminated pursuant to the provisions hereof whichever first occurs, or shall be in excess of $600,000 for any fiscal year ending prior to January 1, 1973, or until said account or accounts have been terminated pursuant to the provisions hereof, whichever first occurs, either (a) the Customers representing a majority of the aggregate dollar amount (as measured by the amount of cash or the value of securities, other property or interests therein) of all subordinated accounts of the Firm subject to the Subordinated Account Agreements or (b) the Customers representing a majority of such aggregate dollar amount subject to the Senior Subordination Agreement or (c) the holders representing a majority of the aggregate principal amount then outstanding of the Firm's Subordinated Convertible Notes all of even date herewith entered into or issued, respectively, pursuant to an agreement dated December 31, 1970 between the Firm and Newburger, Loeb & Co., a limited partnership, acting separately, shall have the option,

exercisable as hereinafter provided, to require the Firm to liquidate; provided, however, that the option granted in this paragraph 4 shall not be exercisable if the net worth of the Firm is greater than $750,000. The option shall be exercisable by the Customers representing a majority of the aggregate dollar amount of the subordinated accounts or Subordinated Convertible Notes, as defined above, giving written notice within thirty days after the end of any applicable period, such notice to be addressed to the Firm at its principal place of business. In the event that this option is exercised, the stockholders, directors and appropriate officers of the Firm shall immediately take any and all action necessary or otherwise required to effect a liquidation of the Firm.

The Firm agrees that, as soon as available, the Customer shall receive a balance sheet and profit and loss statement of the Firm dated as at the Closing Date under the aforesaid agreement dated December 31, 1970 and that not later than the 25th day of each month during the period commencing the date of this Agreement and ending January 1, 1973, or until said account or accounts have been terminated pursuant to the provisions hereof, whichever first occurs, the Customer shall receive from the Firm a balance sheet and a profit and loss statement for the preceding month; and that not later than the 25th day after the end of each fiscal year ending between the date of this agreement and prior to January 1, 1973, or until said account or accounts have been terminated pursuant to the provisions hereof,

whichever first occurs, the Customer shall receive from the Firm a balance sheet and a profit and lo. tatement for the fiscal year then ended.

6. The Firm agrees that until the Maturity Date it will not declare or pay or set apart any funds for the payment of any dividends, other than regular dividends or its Series "A" Preferred Stock and its 5% Convertible Preferred Stock par value $100 per share, on any shares of capital stock of any class or the Firm or apply any of its funds, propert or assets to, or set apart any funds, property, or assets for the purchase, redemption or other retirement of or make any other distribution by reduction of capital or otherwise in respect of any shares of any class of capital stock of the Firm.

7. The Firm agrees to credit to said account or accounts quarterly interest at the rate of 4% per annum on the market value of securities, and 2% per annum over the prime rate of Chemical Bank on cash. Default by the Firm in crediting interest as aforesaid shall not affect the provisions of this agreement subordinating the Customer's claims with respect to said account or accounts.

8. The term the "Firm" as used herein shall mean not only the Firm as now constituted but also any successor or assign of the Firm.

9. This agreement shall be binding upon the Customer, his heirs, executors, administrators, successors and assigns. This agreement is made for the benefit of creditors of the Firm

and shall be effective from the date approved by the New York Stock Exchange.

10. The subordination of Customer's said account or accounts is not being made in reliance upon the standing of the Firm as a member organization of the New York Stock Exchange or upon the New York Stock Exchange's surveillance of the Firm or its capital position. The Customer has made such investigation of the Firm and its officers, directors and shareholders as the Customer deems necessary and appropriate under the circumstances and examination of its pro forma financial statements dated ~~January~~ Dec 31, 1970 ~~1971~~ and a pro forma computation of its net capital prepared by the Firm dated ~~January~~ January 29, 1971 ~~1971~~. The Customer is not relying upon the New York Stock Exchange to provide any information concerning or relating to the Firm and agrees that the New York Stock Exchange has no responsibility to disclose to the Customer any information concerning or relating to the Firm which it may now or at any future time have. The Customer agrees for himself and his heirs, executors, administrators, legal representatives and assigns that neither the New York Stock Exchange, its Special Trust Fund nor any governor, officers, trustees or employees of the New York Stock Exchange or its Special Trust Fund shall be liable to the Customer with respect to the subordination of the Customer's said account or accounts or the repayment to the Customer of any money, securities or any property or interest therein in any said account or accounts.

DEFENDANTS' EXHIBIT Y,
Item No. 27. E 610

11. The Customer hereby affirms the fact that all the property subject to this Agreement is free and clear of any lien, charge or encumbrance at the present time, except the lien of this Agreement, and the Customer agrees that should any such property become subject to any lien, charge or encumbrance, except the lien of this Agreement, prior to the return of such property, the Customer will promptly notify the Firm of the facts thereof It is understood that upon receipt of any such notice, the New York Stock Exchange will be so informed.

12. Upon executing this Agreement, the Customer certifies that none of the securities subordinated under this Agreement will be "control" stock under the Securities Act of 1933, as amended, nor are they or will they be restricted as to sale in any other manner except as hereinabove provided in paragraph 3.

13. This instrument embodies the entire agreement of subordination between the parties and no other evidence of such agreement has been or will be executed without the prior written consent of the New York Stock Exchange.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this 11th day of February, 1971.

SEAL

NEWBURGER, LOEB & CO., INC.

By Fred Kayne, Vice President

Reza Polatz by N. D. Frank, atty. U.S.

Kenis Polatz by N. D. Frank, atty.

DEFENDANTS' EXHIBIT Y,
Item No. 27.

E 611

STATE OF N.Y.)
: SS.:
COUNTY OF N.Y.)

On this 11th day of February, 1971, before me personally came Ned Frank to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Michael A Bamberger

MICHAEL A. BAMBERGER
Notary Public, State of New York
No. 31-0163190
Qualified in New York County
Commission Expires March 30, 1972

DEFENDANTS' EXHIBIT Y, Item No. 27.

E 612

In addition to the document reproduced herein, Item #27 includes a series of identical "Subordinated Account Agreements" executed by the following persons:

Milton Lobel
Albert R. Dworkin
Irving Lobel
Shirley P. Newburger
Betty N. Newborg

DEFENDANTS' EXHIBIT Y,
Item No. 28.

Convertible Subordinated Notes

F.D.2.1.71

E 613

This Note has not been registered under the Securities Act of 1933, as amended. The Note has been acquired for investment and is subject to the restrictions set forth in this Note and may not be sold, transferred, pledged or hypothecated in the absence of an effective registration statement relating thereto under the Securities Act of 1933, as amended, or an opinion of counsel to the Company that registration is not required under the Act.

No. 1

$ 153,737

Dated:February 11,197I

NEWBURGER, LOEB & CO., INC.

Subordinated Convertible Note
Due December 31, 1974

NEWBURGER, LOEB & CO., INC., a Delaware corporation (herein called the "Company"), for value received, hereby promises to pay to Ella M. Newburger, Andrew M. Newburger, Robert L. Newburger, and Donald L. Newborg, as Executors and Trustees U/W/O Lester M. Newburger, Deceased, the principal sum of One Hundred Fifty-three Thousand, Seven Hundred Thirty-Seven Dollars ---------- ~~Dollars~~ ($153,737) on December 31, 1974, or sooner as hereinafter provided, upon the terms and conditions of this Subordinated Convertible Note (hereinafter referred to as the "Note").

1. Payment of Principal.

1.01. The Company shall repay the principal amount

F.D.2.1.71

E 614

This Note has not been registered under the Securities Act of 1933, as amended. The Note has been acquired for investment and is subject to the restrictions set forth in this Note and may not be sold, transferred, pledged or hypothecated in the absence of an effective registration statement relating thereto under the Securities Act of 1933, as amended, or an opinion of counsel to the Company that registration is not required under the Act.

No. 2

$ 425,157

Dated: Feb. 11, 1971

NEWBURGER, LOEB & CO., INC.

Subordinated Convertible Note
Due December 31, 1974

NEWBURGER, LOEB & CO., INC., a Delaware corporation (herein called the "Company"), for value received, hereby promises to pay to May U. Newburger and Geor e B. Levy, as Executors and Trustees U/W/O Morris Newburger, Deceased the principal sum of Four Hundred Twenty-five Thousand, One Hundred/ ~~Dollars~~ Fifty-seven Dollars ~~($xxxxxxx~~) ($425,157) on December 31, 1974, or sooner as hereinafter provided, upon the terms and conditions of this Subordinated Convertible Note (hereinafter referred to as the "Note").

1. Payment of Principal.

1.01. The Company shall repay the principal amount

F.D.2.1.71

E 615

This Note has not been registered under the Securities Act of 1933, as amended. The Note has been acquired for investment and is subject to the restrictions set forth in this Note and may not be sold, transferred, pledged or hypothecated in the absence of an effective registration statement relating thereto under the Securities Act of 1933, as amended, or an opinion of counsel to the Company that registration is not required under the Act.

No. 3

$ 228,553

Dated: Feb. 11, 1971

NEWBURGER, LOEB & CO., INC.

Subordinated Convertible Note
Due December 31, 1974

NEWBURGER, LOEB & CO., INC., a Delaware corporation (herein called the "Company"), for value received, hereby promises to pay to Gerald N. Frank

the principal sum of
Two Hundred Twenty-eight Thousand, Five Hundred Fifty-three Dollars ($228,553)

on December 31, 1974, or sooner as hereinafter provided, upon the terms and conditions of this Subordinated Convertible Note (hereinafter referred to as the "Note").

1. Payment of Principal.

1.01. The Company shall repay the principal amount

F.D.2.1.71

E 616

This Note has not been registered under the Securities Act of 1933, as amended. The Note has been acquired for investment and is subject to the restrictions set forth in this Note and may not be sold, transferred, pledged or hypothecated in the absence of an effective registration statement relating thereto under the Securities Act of 1933, as amended, or an opinion of counsel to the Company that registration is not required under the Act.

No. 4

$ 62,073

Dated: Feb. 11, 1971

NEWBURGER, LOEB & CO., INC.

Subordinated Convertible Note
Due December 31, 1974

NEWBURGER, LOEB & CO., INC., a Delaware corporation (herein called the "Company"), for value received, hereby promises to pay to Willard S. Irle

the principal sum of Sixty-two Thousand, Seventy-three ---------- Dollars ($ 62,073) on December 31, 1974, or sooner as hereinafter provided, upon the terms and conditions of this Subordinated Convertible Note (hereinafter referred to as the "Note").

1. Payment of Principal.

1.01. The Company shall repay the principal amount

F.D.2.1.71

E 617

This Note has not been registered under the Securities Act of 1933, as amended. The Note has been acquired for investment and is subject to the restrictions set forth in this Note and may not be sold, transferred, pledged or hypothecated in the absence of an effective registration statement relating thereto under the Securities Act of 1933, as amended, or an opinion of counsel to the Company that registration is not required under the Act.

No. 5

$ 36,989

Dated: Feb. 11, 1971

NEWBURGER, LOEB & CO., INC.

Subordinated Convertible Note
Due December 31, 1974

NEWBURGER, LOEB & CO., INC., a Delaware corporation (herein called the "Company"), for value received, hereby promises to pay to Jack Wachs

the principal sum of Thirty-six Thousand, Nine Hundred Eighty-Nine Dollars ($ 36,989) on December 31, 1974, or sooner as hereinafter provided, upon the terms and conditions of this Subordinated Convertible Note (hereinafter referred to as the "Note").

1. Payment of Principal.

1.01. The Company shall repay the principal amount

F.D.2.1.71

E 618

This Note has not been registered under the Securities Act of 1933, as amended. The Note has been acquired for investment and is subject to the restrictions set forth in this Note and may not be sold, transferred, pledged or hypothecated in the absence of an effective registration statement relating thereto under the Securities Act of 1933, as amended, or an opinion of counsel to the Company that registration is not required under the Act.

No. 6

$ 36,989

Dated: Feb. 11, 1971

NEWBURGER, LOEB & CO., INC.

Subordinated Convertible Note
Due December 31, 1974

NEWBURGER, LOEB & CO., INC., a Delaware corporation (herein called the "Company"), for value received, hereby promises to pay to Saul A. Brown

the principal sum of Thirty-Six Thousand, Nine Hundred Eighty-nine Dollars ($ 36,989) on December 31, 1974, or sooner as hereinafter provided, upon the terms and conditions of this Subordinated Convertible Note (hereinafter referred to as the "Note").

1. Payment of Principal.

1.01. The Company shall repay the principal amount

F.D.2.1.71

E 619

This Note has not been registered under the Securities Act of 1933, as amended. The Note has been acquired for investment and is subject to the restrictions set forth in this Note and may not be sold, transferred, pledged or hypothecated in the absence of an effective registration statement relating thereto under the Securities Act of 1933, as amended, or an opinion of counsel to the Company that registration is not required under the Act.

No. 7

$ 233,565

Dated: Feb.11, 1971

NEWBURGER, LOEB & CO., INC.

Subordinated Convertible Note
Due December 31, 1974

NEWBURGER, LOEB & CO., INC., a Delaware corporation (herein called the "Company"), for value received, hereby promises to pay to Joseph W. Quarte

the principal sum of
Two Hundred Thirty-three Thousand, Five Hundred Sixty-Five Dollars ($ 233,565)

on December 31, 1974, or sooner as hereinafter provided, upon the terms and conditions of this Subordinated Convertible Note (hereinafter referred to as the "Note").

1. Payment of Principal.

1.01. The Company shall repay the principal amount

E 62

This Note has not been registered under the Securities Act of 1933, as amended. The Note has been acquired for investment and is subject to the restrictions set forth in this Note and may not be sold, transferred, pledged or hypothecated in the absence of an effective registration statement relating thereto under the Securities Act of 1933, as amended, or an opinion of counsel to the Company that registration is not required under the Act.

No. 8

$ 138,431

Dated: Feb. 11, 1971

NEWBURGER, LOEB & CO., INC.

Subordinated Convertible Note
Due December 31, 1974

NEWBURGER, LOEB & CO., INC., a Delaware corporation (herein called the "Company"), for value received, hereby promises to pay to Phillip Shulman

the principal sum of One Hundred Thirty-eight Thousand, Four Hundred Thirty-one Dollars ($ 138,431)

on December 31, 1974, or sooner as hereinafter provided, upon the terms and conditions of this Subordinated Convertible Note (hereinafter referred to as the "Note").

1. Payment of Principal.

1.01. The Company shall repay the principal amount

of this Note as follows: E 621

a. 50% of the principal amount then outstanding on December 31, 1973;

b. the balance of the unpaid principal amount then outstanding on December 31, 1974.

1.02. Subject to the provisions of Section 3, and the approval of the New York Stock Exchange, the Company may prepay, in whole or in part, at any time or from time to time upon not less than six (6) months written notice to the holder (specifying the date and amount of prepayment) the unpaid principal amount of the Note then outstanding without penalty or premium. The notice of prepayment and the approval of the New York Stock Exchange having been given, the Note or portion to be prepaid shall, on the prepayment date fixed by the Company, become due and payable, and on and after such date (unless the Company shall default in the payment of the amount to be prepaid) the Note or portion to be prepaid shall cease to bear interest. If only part of the Note is to be prepaid, the holder of the Note shall surrender against payment therefor the Note to the Company by written instrument of transfer in form satisfactory to the Company, and the Company shall execute and deliver to the holder of the Note to be partially prepaid a new note identical to the partially prepaid note except that the principal amount shall be reduced by the amount so prepaid and

the new note shall be dated the date to which interest has been paid thereon.

1.03. Prepayment shall take place at the offices of the Company on the date fixed in the notice of prepayment and the depositing of funds in an amount necessary to pay the principal amount of the Note to be prepaid hereunder in a specially designated account therefor with any bank or other depository designated by the Company. The only rights of a holder of the Note shall be to receive payment against delivery of the Note to the Company along with the written instrument of transfer; provided, however, that in the case of a partial prepayment the rights relinquished by the holder of the Note shall be only to the extent of the amount of prepayment hereunder.

1.04. This Note is one of a Series of Subordinated Convertible Notes. If the Company elects to prepay the whole of the principal amount of the Note, it shall prepay all of the Subordinated Convertible Notes outstanding. If the Company elects to prepay only part of the principal amount of the Note, it shall prepay all the Subordinated Convertible Notes outstanding pro rata.

2. Interest.

2.01. The Company shall pay interest on the unpaid principal amount of the Note at a rate per annum (on a 365-day year basis, actual number of days elapsed) which shall be 2% in excess of the prime commercial loan rate in New York City of the Chemical Bank then in force for borrowings of comparable

maturity; provided, however, that the rate of interest per annum shall not exceed 9% or the prime commercial loan rate in New York City of the Chemical Bank for borrowings of comparable maturity, whichever is higher. The rate of interest on this Note shall change when and as said prime commercial loan rate is changed. Any such change in the rate of interest payable on this Note shall become effective at the opening of business on the day following the day on which such change in the prime commercial loan rate is announced. E 623

2.02. Interest shall be payable twenty-five (25) days after the end of each fiscal quarter of the Company only to the extent of net earnings (as defined below) of the Company for the fiscal quarter then ended. To the extent that interest is not paid with respect to any fiscal quarter of the Company, it shall accrue and be paid twenty (20) days after the end of the fiscal year of the Company to the extent that net earnings of the Company for the fiscal year then ended have been realized in an amount sufficient to pay quarterly interest accrued but previously unpaid after deducting from said annual net earnings the amounts of quarterly interest earned and paid during the fiscal year then ended. If net earnings for the fiscal year of the Company are not sufficient to allow the payment of quarterly interest accrued but unpaid for any fiscal quarter, then all obligations of the Company for the fiscal year with respect to such unpaid interest shall cease, it being understood and agreed that the rights of the holder to such unpaid quarterly interest are not cumulative from year to year. For the purposes of this

Note, "net earnings" for the applicable period shall mean net earnings after provision for all federal, state and local taxes, as determined on an accrual basis in accordance with generally accepted accounting principles and practices consistently applied. E 624

2.03. The Company shall not make any payment of interest

(a) if it is in default under or has not made the payments required with respect to the agreements subordinating certain accounts of the Company under paragraphs 9A and 11(f) in an agreement of December 31, 1970 between the Company and Newburger, Loeb & Co., a limited partnership (hereinafter referred to as the "Subordinated Accounts"), or

(b) if it is in default under any evidence of indebtedness or agreement relating thereto, the rights of which by its terms are superior to the rights of the holder of the Note, or

(c) if between the end of any fiscal period with respect to which interest is earned and the payment date thereof, any events should occur in the normal operations of the Company's business as a consequence of which the making of the interest payment would result in a violation by the Company of the net capital requirements of the New York Stock Exchange

2.04. Notwithstanding any provision to the contrary in the Note, the Company will pay (by delivering or mailing first class postage prepaid, its check) all amounts payable in respect of interest on the Note to the holder thereof at the registered

address of such holder, or at such other address as such holder shall have furnished to the Company in writing, without presentment of the Note, unless other arrangements satisfactory to the Company and such holder have been made.

2.05. Any payment made in accordance with this Article 2 shall be deemed for all purposes of the Note to have been duly made or duly provided for.

3. Subordination

3.01. The Note and the obligations of the Company hereunder shall, and the holder hereof by accepting the same irrevocably agrees, for himself, his heirs, executors, administrators and assigns, that ,to the extent and in the manner hereinafter set forth, be subordinated and subject in right of payment of principal and interest to the prior payment or provision for payment in full of all claims with respect to, and of the principal and premium, if any, and interest on, Senior Indebtedness (as hereinafter defined) and of the Subordinated Accounts (as hereinafter defined), including, but not limited to, the liquidation and payment of principal and interest, the delivery of dividends, interest upon securities and capital gains distributions upon securities in such accounts.

3.02. No payment on account of principal, premium, if any, or interest on the Note shall be made, nor shall any property or assets be applied to the purchase or other acquisition or retirement of the Note, unless full payment of amounts then due for principal, premium, if any, and interest on the Subordinated

Accounts and all Senior Indebtedness has been made or duly provided for in money or money's worth. No payment on account of principal, premium, if any, or interest on the Note shall be made if, at the time of such payment or immediately after giving effect thereto, (i) there shall exist a default in the payment of principal, premium, if any, or interest with respect to any Subordinated Account or Senior Indebtedness, or (ii) there shall have occurred an event of default (other than a default in the payment of principal, premium, if any, or interest) with respect to any Subordinated Account or Senior Indebtedness, as defined therein or in the instrument under which the same is outstanding, permitting the holders thereof to accelerate the maturity thereof, and such event of default shall not have been cured or waived or shall not have ceased to exist. Anything to the contrary contained in this Section 3.02 notwithstanding, if the payment or withdrawal of any Senior Indebtedness or the Subordinated Accounts existing or the date of Note is extended, deferred or renewed or if any Senior Indebtedness or additional subordinated accounts superior in rights and order of preference to the Note are created hereafter, or if the full payment of amounts not yet due for principal, premiums, if any, and interest on the Subordinated Accounts has not yet been made or duly provided for in money or money's worth, the holder of the Note shall be entitled to the payment of principal to be repaid pursuant to Section 1.01 above on the dates therein specified, unless the Company or any successor

corporation, at the time such payments of principal are due, is insolvent, bankrupt, in receivership, in reorganization whether or not pursuant to bankruptcy laws, in liquidation or any other marshalling of the assets and liabilities of the Company, or its assets are subject to an assignment for the benefit of creditors.

3.03. Upon (i) any acceleration of the principal amount due on the Note (ii) any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to creditors upon any dissolution or winding up or total or partial liquidation or reorganization of the Company, whether voluntary or involuntary or in bankruptcy, insolvency, receivership or other proceedings, all principal, premium, if any, and interest due or to become due upon all the Subordinated Accounts and Senior Indebtedness shall first be paid in full, or payment thereof provided for in money or money's worth, before the holder of the Note shall be entitled to retain any assets so paid or distributed in respect thereof (for principal, premium, if any, or interest); and upon any such dissolution or winding up or liquidation or reorganization any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, to which the holder of the Note would be entitled, except for these provisions, shall be paid by the Company or by any receiver, trustee

in bankruptcy, liquidating trustee, agent or other person making such payment or distribution, or by the holder of the Note if received by them or it, directly to the holders of the Subordinated Accounts or of Senior Indebtedness (pro rata to each such holder on the basis of the respective amounts of Senior Indebtedness held by such holder) or their representatives, to the extent necessary to pay all the Subordinated Accounts and Senior Indebtedness in full, in money or money's worth, after giving effect to any concurrent payment or distribution to or for the holders of the Subordinated Accounts and Senior Indebtedness, before any payment or distribution is made to the holder of the Note.

In the event that, notwithstanding the provisions of the preceding paragraph, any such payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, shall be received by the holder of the Note before all the Subordinated Accounts and Senior Indebtedness is paid in full, or provision made for such payment, in accordance with its terms, such payment or distribution shall be held in trust for the benefit of, and shall be paid over or delivered to, the holders of such Subordinated Accounts and Senior Indebtedness or their representative or representatives, or to the trustee or

trustees under any indenture pursuant to which any instruments evidencing any of such Senior Indebtedness may have been issued, as their respective interests may appear, for application to the payment of all the Subordinated Accounts and Senior Indebtedness remaining unpaid to the extent necessary to pay all such Subordinated Accounts and Senior Indebtedness in full in accordance with its terms, after giving effect to any concurrent payment or distribution to or for the holders of such Subordinated Accounts and Senior Indebtedness.

3.04. Subject to the payment in full of all Subordinated Accounts and Senior Indebtedness, the holder of the Note (together with the holders of any other indebtedness of the Company which is indebtedness of the Company, but is not subordinate in right of payment to the Note and by its terms grants such right of subrogation to the holders thereof) shall be subrogated to the rights of the holders of the Subordinated Accounts and Senior Indebtedness to receive payments or distributions of assets of the Company made on the Subordinated Accounts and Senior Indebtedness until the principal, premium, if any, and interest on the Note shall be paid in full; and, for the purposes of such subrogation, no payments or distributions to the holders of the Subordinated Accounts and Senior Indebtedness of any cash, property or securities to which the holder of the Note would be entitled except for these

provisions shall, as between the Company, its creditors other than the holders of the Subordinated Accounts and Senior Indebtedness, and the holder of the Note, be deemed to be a payment by the Company to or on account of the Subordinated Accounts and Senior Indebtedness, it being understood that these provisions are and are intended solely for the purpose of defining the relative rights of the holder of the Note, on the one hand, and the holders of the Subordinated Accounts and Senior Indebtedness, on the other hand.

3.05. Each holder of the Note by his acceptance thereof shall be deemed to acknowledge and agree that the foregoing subordination provisions are, and are intended to be, for the benefit of, and an inducement and a consideration to, each holder of any Subordinated Accounts or Senior Indebtedness, whether such was created or acquired before or after the issuance of the Note, to acquire and continue to hold, or to continue to hold, such Subordinated Accounts or Senior Indebtedness. Such holders of the Subordinated Accounts and Senior Indebtedness shall be deemed conclusively to have relied on such subordination provisions in acquiring and continuing to hold, or in continuing to hold, such Subordinated Accounts or Senior Indebtedness, and the foregoing subordination provisions may be enforced directly by such holders against the holder of the Note.

3.06. The term "Senior Indebtedness" shall mean with respect to any matter occurring prior to the dates for repayment of principal pursuant to Section 1.01 above (a) all indebtedness for money borrowed or incurred in the ordinary course of the Company's brokerage business subsequent to the date of this Note, other than the Subordinated Accounts and other than such indebtedness which by the terms of the instruments evidencing such indebtedness or pursuant to which said instruments have been issued is expressly provided to be not senior in right of payment to the Note to which these provisions apply; (b) any deferrals, renewals or extensions of any such Senior Indebtedness; and (c) the claims of all other present and future creditors of the Company and of any successor corporation, including, but not limited to, all customers of the Company, who have not so subordinated their claims. The term "indebtedness for money borrowed" as used in the foregoing sentence shall mean any obligation of the Company (and any guaranty, endorsement or other contingent obligation of the Company in respect of, or to purchase, or otherwise acquire, any obligation of another) for borrowed money.

4. Conversion of Note.

4.01. Subject to and upon compliance with the provisions of this Section 4, the holder of the Note shall have the

right, at its option and from time to time, to convert the principal of the Note into fully paid nonassessable shares of the nonvoting common stock of the Company at the conversion price of $ principal amount of the Note then outstanding at the time of conversion for each share of nonvoting common stock, subject to adjustments in price as provided for in Section 4.05 below, (except that with respect to the Note which shall have been called for prepayment, such right shall terminate on the date of actual prepayment with respect to the principal amount of the Note to be prepaid, unless the Company shall default in prepayment upon the date thereof) by giving written notice in form satisfactory to the Company, that the holder of the Note elects to convert the Note, or a specified portion thereof, which notice shall also state the name or names (with address) in which the certificate or certificates for such nonvoting stock shall be issued.

4.02. The exercise of the right of conversion and the issuance of the Company's nonvoting common stock thereon, shall be subject to the prior approval of the New York Stock Exchange. Upon receipt from the holder of the Note of its written notice of election to convert, the Company shall forward a copy thereof to the New York Stock Exchange. Until the conversion of the Note has been approved

by the New York Stock Exchange, no shares of the Company's nonvoting common stock with respect to the conversion of the Note shall be issued to the holder of the Note. Upon receipt by the Company of the approval by the New York Stock Exchange of the conversion of the Note, the Company will notify the holder of the Note, who will thereafter surrender the Note to the Company, at any time during usual business hours at the office of Company, and, if so required by the Company, duly endorsed or accompanied by a written instrument or instruments of transfer in form satisfactory to the Company duly executed by the holder of the Note.

4.03. As promptly as practicable after the surrender of the Note for conversion, the Company shall deliver to the holder of the Note a certificate or certificates representing the number of duly authorized validly issued, fully paid and nonassessable whole shares of nonvoting common stock into which the Note may be converted under Section 4.01 above, and the Company shall, in respect of any fractional par interest, pay a cash adjustment in accordance with Section 4.07. In case the Note is converted in part only, upon such conversion the Company shall execute and deliver to the holder thereof a new note upon the same terms and conditions as the Note surrendered in aggregate principal amount equal to the unconverted portion of the principal of the Note.

4.04. No payment or adjustment shall be made on conversion of the Note for interest accrued thereon or for dividends on securities issued in respect thereof.

4.05. The price at which shares of nonvoting common stock shall be delivered upon conversion (hereinafter called the "Conversion Price") shall be initially $ per share of nonvoting common stock and shall be subject to adjustment as follows:

A. Subject to Paragraph C of this Section, if the Company shall issue or sell any shares of nonvoting common stock (excluding shares issued or sold, or considered to have been issued or sold, upon conversion of the Note) for a consideration per share less than the conversion price in effect immediately prior to such issuance or sale or without consideration, such conversion price shall forthwith be reduced to a price determined by dividing:

(i) an amount equal to (a) the number of shares of nonvoting common stock outstanding immediately prior to such issuance or sale multiplied by such conversion price, plus (b) the consideration, if any, received by the Company upon such issuance or sale, by

(ii) such number of outstanding shares, plus the number so issued or sold.

However, if upon any such issuance or sale the amount of the adjustment in conversion price pursuant to such formula, plus any amount or amounts carried forward pursuant to this sentence

and not previously included in any reduction of the conversion price, shall not exceed 10 cents, no adjustment shall forthwith be made in the conversion price in respect thereof, but such total amount shall be carried forward and added to the amount of the adjustment, if any, upon subsequent issuances or sales of nonvoting sommon stock.

For the purposes of this Paragraph A, the following provisions shall be applicable:

(1) In the case of issuance or sale of shares of nonvoting common stock for cash, the consideration shall be deemed to be the cash proceeds received by the Company before deducting any discounts, commissions or other expenses incurred in connection therewith.

(2) In the case of issuance or sale of shares of nonvoting common stock (otherwise than upon conversion or exchange of securities by their terms convertible or exchangeable into nonvoting common stock) for a consideration other than cash, the amount of such consideration shall be deemed to be the fair value thereof as determined by the Board of Directors of the Company, irrespective of the accounting treatment thereof.

(3) In the case of issuance of shares of nonvoting common stock as a dividend, the shares shall be deemed to have been issued without consideration at the close of business on the dividend record date. If no dividend record date is fixed,

the first business day during which the transfer books of the Company shall be closed in connection with the dividend shall be treated as the record date. E 636

(4) If the Company issues options or rights to subscribe for shares of nonvoting common stock (excluding shares which may be issued or sold pursuant to Paragraph C of this Section without reduction of the conversion price) or issues any securities (other than the Note) by their terms convertible into or exchangeable for shares of nonvoting common stock, and if the consideration per share of nonvoting common stock deliverable upon exercise of such options or rights or upon conversion or exchange of such securities, determined as provided below, is less than the conversion price in effect as to the Note immediately prior to the issuance of such options, rights or securities:

(a) the aggregate number of shares of nonvoting common stock deliverable under such options or rights shall be considered to have been issued or sold at the time such options or rights were issued, and for a consideration equal to the minimum purchase price provided for in such options or rights, plus the consideration, if any (determined in the same manner provided in paragraphs (1) and (2) above with respect to cash consideration and consideration other than cash) received by the Company for such options or rights;

(b) the maximum number of shares of nonvoting common stock initially deliverable upon conversion of or in exchange for any such convertible or exchangeable securities shall be considered to have been issued at the time of issuance or sale of such securities, and for a consideration equal to the consideration received by the Company for such securities, before deducting any discounts, commissions or other expenses in connection with the issuance and sale of such securities, plus the minimum additional consideration, if any, receivable by the Company upon the conversion or exchange thereof (the consideration in each case to be determined in the same manner as provided in paragraphs (1) and (2) above with respect to cash consideration and consideration other than cash);

(c) on the expiration of such options or rights, or the termination of such right to convert or exchange, the conversion price shall forthwith be readjusted to such conversion price as would have been obtained had the adjustment made upon the issuance of such options, rights, or convertible or exchangeable securities been made upon the basis of the issuance or sale of only the number of shares of nonvoting common stock actually issued upon the exercise of such options or rights or upon the conversion or exchange of such securities; and

(d) in the event that, prior to the expiration of such options or rights or the termination of such right to convert or exchange, the consideration payable on the

issuance, sale or delivery of the shares of nonvoting common stock shall increase, or the number of shares of nonvoting common stock deliverable upon conversion of or in exchange for any such convertible or exchangeable security shall decrease, the conversion price shall forthwith be readjusted to such conversion price as would have obtained had the adjustment made upon the issuance of such options, rights or convertible or exchangeable securities been made upon the basis of such increased consideration payable or decreased number of shares deliverable, and upon the basis of the issuance or sale of the number of shares of nonvoting common stock actually issued prior thereto upon the exercise of such options or rights or upon the conversion or exchange of such securities.

B. If the Company shall (i) subdivide its outstanding shares of nonvoting common stock, (ii) combine its outstanding shares of nonvoting common stock into a smaller number of shares, or (iii) issue by reclassification of its shares of nonvoting common stock any shares of the Company, the conversion price in effect immediately prior thereto shall be proportionately adjusted so that the holder of any Note thereafter surrendered for conversion shall be entitled to receive the number of shares of the Company which he would have owned or have been entitled to receive after the happening of the events described above, had such Note been converted immediately prior to such event. Such adjustments shall become effective

immediately after the close of business on the effective day of any such event.

C. The conversion price shall not be reduced by reason of the issuance or sale (whether actual, or considered to have occurred under the circumstances referred to in paragraph (4) of Paragraph A of this Section) of shares of nonvoting common stock,

(1) upon conversion of the Note; and

(2) by way of dividend or other distribution (other than any event referred to in Paragraph B of this Section) (i) on shares of nonvoting common stock which may be issued under the circumstances described in the foregoing clause (1), (ii) on shares of nonvoting common stock resulting from any subdivision or combination of shares of nonvoting common stock issued under the circumstances described in the foregoing clause (1), or (iii) on shares of nonvoting common stock issued by way of dividend or other distribution on, or subdivision or combination of, any of such shares; but any such shares outstanding from time to time shall be taken into account in the formula provided in Paragraph A of this Section for the purpose of computing adjustment, if any, in the conversion price upon issuances and sales of shares of nonvoting common stock other than shares referred to in this Paragraph C.

The sale or other disposition of any shares of nonvoting common stock or other securities held in the treasury of the Company shall not be deemed an issuance or sale thereof.

D. All calculations under this Article shall be made to the nearest ten cents or to the nearest share, as the case may be.

E. Whenever the Conversion Price is adjusted as hereinprovided, the Company shall promptly notify the holder of the Note by notice setting forth the adjusted Conversion Price mailed to the holder at his last address appearing on the records of the Company.

4.06. The number of shares of nonvoting common stock into which the Note is convertible under this Section 4 shall be appropriately adjusted and the price per share shall be appropriately increased or decreased in the case of any stock split, stock dividend, merger, consolidation, reorganization or recapitalization with respect to the nonvoting common stock of the Company.

4.07. No fractional shares of nonvoting common stock shall be issued upon a conversion of the Note. If more than one Note shall be surrendered for conversion at one time by the same holder, the number of full shares which shall be issuable upon conversion thereof shall be computed on the basis of the aggregate principal amount of the Notes so surrendered. In lieu of issuing any fractional share, the Company shall pay a cash adjustment in an amount equal to the same fraction of the price per share of nonvoting common stock on the Business Day next preceding the day of conversion.

4.08. The Company covenants that it will at all times 641 reserve and keep available out of its authorized shares of nonvoting common stock, free from pre-emptive rights, solely for the purpose of issue upon conversion of Notes as herein provided, such number of shares of nonvoting common stock as shall then be issuable upon the conversion of all outstanding Notes. The Company covenants that all shares of nonvoting common stock which shall be so issuable shall, when issued, be duly and validly issued and full-paid and nonassessable.

The Company covenants that, upon conversion of Notes as herein provided, there will be credited to nonvoting common stock capital account from the consideration for which the shares of nonvoting common stock issuable upon such conversion are issued an amount per share of nonvoting common stock so issued as determined by the Board of Directors, which amount shall not be less than the amount required by law and by the Company's Certificate of Incorporation in effect on the date of such conversion. For the purposes of this covenant, the principal amount of the Note converted, less the amount of cash paid in lieu of the issuance of fractional shares on such conversion, shall be deemed to be the amount of consideration for which the shares issuable upon such conversion are issu

4.09. The Company covenants that if any shares of nonvoting common stock required to be reserved for purposes of

conversion of the Note hereunder require registration with or approval of any governmental authority under any Federal or State law, or any mational securities exchange, before such shares may be issued upon conversion, the Company will in good faith and as expeditiously as possible endeavor to cause such shares to be duly registered or approved, as the case may be.

5. Covenants of the Company.

5.01. Until the Note has been paid in full, the Company shall not:

(a) declare or pay or set apart any funds for the payment of any dividends (other than regular dividends on the Series A Preferred Stock, par value $100 per share, and on the 5% Convertible Preferred Stock, par value $100 per share, of the Company) on any shares of capital stock of any class of the Company or apply any of its funds, property or assets to, or set apart any funds, property or assets for, the purchase, redemption or other retirement of, or make any other distribution, by reduction of capital or otherwise,in respect of any shares of any class of capital stock of the Company;

(b) engage in operations outside of the ordinary course of the brokerage business.

5.02. Until the Note has been paid in full, the Company covenants and agrees that:

(a) It shall make the mandatory prepayments of the Subordinated Accounts required by paragraph 9A(b) of the Agreement dated December 31, 1970 between the Company and Newburger, Loeb & Co., the limited partnership;

(b) The compensation to be paid to Messrs. Robert Muh and Paul Risher pursuant to employment agreements referred to in paragraph 7A of the aforesaid agreement dated December 31, 1970 shall not be increased during the first year of their employment, and that any increase in compensation paid to them thereafter shall not result in aggregate compensation paid to them in excess of 16% of the Company's annual net profits before deduction for such compensation; and

(c) In the event the Company offers to the public any class of its common stock, the Note shall be convertible pursuant to Section 4 above into the class of common stock being offered to the public to the extent the holder has not exercised the conversion rights pursuant to Section 4 above, and to the extent the holder has exercised such conversion rights, the nonvoting common stock received by the holder thereof shall be converted into shares of the class of common stock being offered to the public; and

(d) If the Company at any time intends to register any of its securities under the Securities Act of 1933 for any one or more of its "management group" as defined in paragraph 11(j) of the aforesaid Agreement dated December 31, 1970, the Company will notify

the holders of the Note of its intention to so register, and upon the written request of any holder of the Note received within fourteen (14) days of the receipt by such holder of the aforesaid notice from the Company, the Company will use its best efforts to cause the shares of nonvoting common stock into which the Note is convertible or any other shares of any class of stock of the Company into which such shares of nonvoting common stock are convertible to be registered (if such registration is required) under the Securities Act of 1933 at the Company's expense (other than transfer taxes, underwriting commissions, spreads and fees) for the first such registration on behalf of the holder of the Note and at the holder's expense with respect to any additional registration; provided, however, that the amount of shares to be registered by the holder of the Note shall not be greater in proportion to the entire amount of shares in the Company owned by the holder than the proportion of the shares being registered by the management group bears to their entire holdings of the sharesof the Company; and

(e) The holder of the Note shall receive notices of meetings of the shareholders of the Company and shall have the right to attend, or to have an authorized representative attend, such meetings; and

(f) The holders of all the Subordinated Convertible Notes shall be entitled, as a class, to have one authorized representative, whom they designate in writing to the Company, attend meetings of the

Company's Board of Directors as an observer and to have such authorized representative receive the same notice of such meetings as the members of the Board of Directors receive; and

(g) The holders of all the Subordinated Convertible Notes as a class, by one authorized representative whom they shall designate in writing to the Company, shall have the right to inspect the books and records of the Company at any time during which this Note is outstanding at the offices of the Company during normal business hours.

5.03. In the event that the aggregate net losses of the Company from operations shall be in excess of $350,000 for any period of four consecutive calendar months or less prior to January 1, 1975 ,or until this Note has been paid in full, whichever first occurs, or shall be in excess of $600,000 for any fiscal year ending prior to January 1, 1975 , or until this Note has been paid in full, whichever first occurs, the holders representing a majority of the aggregate principal amount (outstanding at the end of either of the above periods) of the Subordinated Convertible Notes, of which this Note is one, shall have the option, exercisable as hereinafter provided, to require the Company to liquidate; provided, however, that option granted in this Section 5.03 shall not be exercisable if the net worth of the Company is greater than $750,000. The option shall be exercisable by the holders of a majority of the aggregate principal amount outstanding at the end of either of the above periods

of the Subordinated Convertible Notes giving written notice within thirty days after the end of any four consecutive calendar month period during the period between the date of this Note and January 1, 1975 or within thirty days after the end of any fiscal year ending prior to January 1, 1975, such notice to be addressed to the Company at its principal place of business. In the event that this option is exercised, the stockholders, directors and appropriate officers of the Company shall immediately take any and all action necessary or otherwise required to effect a liquidation of the Company.

5.04. The Company covenants and agrees that not later than the twenty-fifth day of each month during the period commencing the day of this Note and ending January 1, 1975, or until this Note has been paid in full, whichever first occurs, the holder of the Note shall receive from the Company a balance sheet and a profit and loss statement for the preceding month; and that not later than the twenty-fifth day after the end of each fiscal year ending between the date of this Note and prior to January 1, 1975, or until this Note has been paid in full, whichever first occurs, the holder of this Note shall receive from the Company a balance sheet and a profit and loss statement for the fiscal year then ended.

6. Default.

6.01. Events of Default. If one or more of the following events (herein called "Events of Default") shall occur:

(a) if the Company shall default in the due and punctual payment of any installment of principal

of, or premium, if any, on the Note when and as the same shall become due and payable, whether at maturity or on a date fixed for prepayment or by acceleration or otherwise and such default shall have continued for a period of ten (10) days; or

(b) if the Company shall default in the performance or observance of any material covenant, agreement, or conditions in the Note, and such default shall not have been remedied within thirty days after written notice thereof shall have been given to the Company by the holder of the Note; or

(c) if the Company shall default as such term is defined in any instrument evidencing or under which the Company has outstanding at the time any indebtedness for money borrowed, and such default shall continue for such period of time, or for such period of time after the giving of appropriate notice, if required, as the e may be, as would permit the holder thereof of obligations issued hereunder to accelerate the maturity thereof or of any such obligations; provided, however, that if such default shall be remedied or cured by the Company or waived, then the Event of Default hereunder by reason thereof shall be deemed likewise to have been thereupon remedied, cured or waived without further action upon the part of the holder of the Note; or

(d) if the Company shall (i) admit in writing its inability to pay its debts generally as they become due, (ii) file a petition in bankruptcy or a petition to take advantage of any insolvency act, (iii) make an

assignment for the benefit of its creditors, (iv) consent to the appointment of a receiver of itself or of the whole or any substantial part of its property, or (v) file a petition or answer seeking or consenting to reorganization or arrangement under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any State thereof; or

(e) if the Company shall, on a petition in bankruptcy filed against it, be adjudicated a bankrupt or a court of competent jurisdiction shall enter an order or decree appointing, without the consent of the Company, a receiver of the Company, as the case may be, or of the whole or substantially all of its property, or approving a petition seeking reorganization or arragnement of the Company under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any State thereof, and such judgment, order or decree shall not be vacated or set aside or stayed within 60 days from the date of the entry thereof;

then and in any such event, if such default continues, the holder of the Note may, by notice to the Company, declare the Note to be, and the Note shall thereupon forthwith become, due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived. Any default by the Company in the due and punctual payment of any installment of interest on the Note when and as the same shall become due and payable shall not act to accelerate the maturity of the Note.

6.02. Remedies.(a)In case any one or more Events of Default shall have happened and be continuing, the holder of the Note may proceed to protect and enforce its rights either by suit in equity or by action at law, or by other appropriate proceedings, whether for the specific performance (to the extent permitted by law) of any covenant or agreement contained in the Note or in aid of the exercise of any power granted in the Note, or proceed to enforce the payment of the Note or to enforce any other legal or equitable right of the holder of the Note.

(b) No remedy herein conferred on the holder of the Note is intended to be exclusive of any other remedy and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise.

(c) Anything in the foregoing provisions of this Section 6 to the contrary notwithstanding, all rights, remedies and payment with respect thereto are and shall remain subordinate as hereinabove set forth in Section 3 of this Note.

7. Restrictions on Transfer.

By acceptance of and delivery to the above named holder of the Note, the holder warrants, represents and agrees that the Note is being taken for investment only and not with a view to the sale or distribution thereof or with any present intention of selling or distributing it. The Note may not be transferred,

conveyed or otherwise assigned except upon the following terms and conditions:

7.01. The holder of the Note agrees that it will notify the Company in writing before offering for sale or selling, transferring, assigning or otherwise disposing of all or any part of the Note, describing briefly the nature of any such offer, sale, transfer, assignment or any other such disposition; and no such offer, sale, transfer, assignment or other disposition shall be made unless and until (a) the Company has notified the holder of the Note in writing that in the opinion of counsel for the Company no registration (or perfection of an exemption) under the Securities Act of 1933 (which Act together with any similar federal statute now or hereinafter in force is hereinafter referred to as the "Act") is required with respect to such offer, sale, transfer, assignment or other disposition, or (b) if the holder has requested the opinion of other counsel reasonably acceptable to counsel for the Company and has received the opinion of such counsel to the effect specified in clause (a) above, (c) until any such sale, transfer, assignment or other disposition has been approved by the New York Stock Exchange, and (d) the transferee agrees to the restriction on transfer contained in the Note and assumes the obligations of the holder of the Note under this Section 7. The Company agrees that within 15 business days after the receipt of any such written notice, it will notify the holder of the

Note whether in the opinion of counsel for the Company, registration (of perfection of an exemption) is required with respect to the proposed offer of sale, transfer, assignment or other disposition.

7.02. Any note issued in exchange or substituted for this Note shall bear the legend set forth at the beginning of this Note unless in the opinion of counsel for the Company the Note need no longer be subject to the restrictions contained in this Section 7. The provisions of this Section 7 shall be binding upon the initial holder and all subsequent holders of the Note. All referrals herein to the holders of the Note shall be deemed to include such subsequent holders.

7.03. So long as all or any part of the Note remains outstanding and unpaid, the Company will maintain at its office a place where the Note may be presented for registration of transfer or exchange as provided in this Section 7.

7.04. The Company shall keep at such place a register in which, subject to such reasonable regulations as it may prescribe, the Company shall register the names and addresses of the holders of the Note and shall register the transfer of the Note as provided herein. Any such register shall be in written form or in any other form capable of being converted into written form within a reasonable time.

Upon due presentment for registration of transfer of the Note at such place, the Company will execute, register and deliver in exchange therefor a new note or notes equal in aggregate principal amount to the unpaid principal amount of the Note so presented for registration of transfer, dated the date to which interest has been paid thereon and registered in the name or names of the transferee or transferees. Each Note presented or surrendered for registration of transfer, exchange, partial payment or payment shall (if so required by the Company) be duly endorsed by or accompanied by a written instrument or instruments of transfer in form satisfactory to the Company duly executed by the holder thereof or his attorney duly authorized in writing.

The Company shall not be required to exchange or register a transfer of the Note on, or for a period of 30 days next preceding, any interest payment date or any date fixed for a payment or pre-payment of the Note.

No service charge shall be made for any exchange or registration of transfer of the Note, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith.

7.05. Subject to the foregoing provisions of this Section 7, the Note shall not be assignable or transferable by the holder except pursuant to the provisions of a will, testamentary trust or by the laws of descent and distribution in

the jurisdiction in which the holder dies intestate; provided, however, that in the event of a transfer by will, testamentary trust or intestate succession, the transferee thereunder shall be bound by all of the terms of the Note.

8. Replacement of Note.

Upon receipt of evidence satisfactory to the Company of the loss, theft, destruction or mutilation of the Note and, in the case of any such loss, theft, or destruction, upon delivery of indemnity satisfactory to the Company or, in the case of any such mutilation, upon surrender and cancellation of the Note, the Company will execute and deliver in lieu of such lost, stolen, destroyed or mutilated Note, a new note of like tenor and unpaid principal amount dated the date to which interest has been paid on the lost, stolen, destroyed or mutilated Note and registration in the name of the holder thereof.

9. Settlement of Disputes.

In the event of any dispute arising under or with respect to the Note, its terms, provisions and conditions and the obligations of the Company hereunder, the following provisions shall govern:

9.01. The dispute may be settled by written agreement among the Company and the holders of its Subordinated Convertible Notes due December 31, 1974, of which this Note is one, representing % of the aggregate principal amount of all such notes then outstanding.

9.02. If any dispute arising hereunder is not settled within thirty days of the date on which either the Company or any holder of the Note gives notice of such dispute, it shall be submitted to arbitration before the New York Stock Exchange in accordance with the rules thereof then in effect. The decision or award resulting from such arbitration shall be final, conclusive and binding upon the Company and the holder of the Note and may be enforced in any court of competent jurisdiction.

9.03. Any notice given under this Section 9 by the Company shall be sent simultaneously to all holders of its Subordinated Convertible Notes identical to this Note. In the event any holder of the Subordinated Convertible Notes gives notice to the Company of a dispute hereunder, the Company shall immediately forward a copy of such notice to all other holders of identical Subordinated Convertible Notes.

10. Ownership and Recourse.

10.01. Prior to due presentment for registration of transfer of the Note, the Company may deem and treat the registered holder thereof as the absolute holder (whether or not the Note shall be overdue and notwithstanding any notation of ownership or other writing hereon by anyone other than the Company) for the purpose of receiving payment of or on account of the principal or interest on the Note and for all other purposes, and the Company shall not be affected by any notice to the contrary. All payments

made to the registered holder hereof shall be valid and effectual to satisfy and discharge the liability upon the Note to the extent of the sum or sums paid.

10.02. No recourse for the payment for the principal of or interest on the Note or for any claim based herein or otherwise with respect hereof and no recourse under or upon any obligation, covenant or agreement of the Company in this Note or because of the creation of any indebtedness represented thereby shall be had against any incorporator, stockholder, officer or director as such, past, present or future of the Company or of any successor corporation either directly or through the Company or any successor corporation, whether by virtue of any constitution, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability being by the acceptance hereof and as part of the consideration for the issuance hereof expressly waived and released.

IN WITNESS WHEREOF, NEWBURGER, LOEB & CO., INC. has caused this Note to be executed by its authorized officer.

NEWBURGER, LOEB & CO., INC.

By_____

DEFENDANTS' EXHIBIT Z.

29-H

E 656

FINLEY, KUMBLE, UNDERBERG, PERSKY & ROTH

LEON FINLEY
STEVEN J. KUMBLE
NEIL UNDERBERG
ROBERT S. PERSKY
HERBERT F. ROTH
DONALD ZIMMERMAN

LOUIS BECK
NORMAN ROY GRUTMAN
THEODORE J. GREENE
ALAN M. GELB
B. HOWARD RAPPAPORT

RICHARD E. CARTER
PAUL R. ALTER
LEWIS H. SANDLER
STANLEY L. GOLDEN
BENJAMIN IRA GERTZ
JOHN P. A. MARCIN
DONALD S. SNIDER
HOWARD L. BASS
ROBERT E. PEDUZZI

STEPHEN A. WEISS
L. MARTIN GIBBS
MICHAEL A. BAMBERGER
ROBERT L. FALKER
LENORE O. KALMUS
SHELDON M. GOLDSTEIN
WILLIAM F. ROSENBLUM, JR.
PETER J. LANE
STEPHEN O. DICKERMAN

477 MADISON AVENUE
NEW YORK, NEW YORK 10022

755-7800
(AREA CODE 212)

CABLE: LENFINLEY
NEW YORK

February 2, 1971

BY HAND

Gentlemen:

Mabel Bleich has informed us by letter dated February 1, 1971, from her attorneys, Golenbock and Barell, that she has withdrawn from the reorganization of Newburger, Loeb & Co.

Golenbock and Barell, former counsel to Newburger, Loeb & Co., also represent Jeanne G. Donoghue, the sister of Charles Gross and on occasion have represented Charles Gross, as an individual.

Unless we are advised in writing that Miss Bleich will consent to the reorganization on or before 4:00 P.M. on Thursday, February 4, 1971, our plans to close on February 11, 1971, will be cancelled and in accordance with the request of the New York Stock Exchange, Newburger, Loeb & Co., will be liquidated.

We are advising you of these plans at this time so as to permit counsel to schedule other matters on February 11, 1971.

Very truly yours,

FINLEY, KUMBLE, UNDERBERG,
PERSKY & ROTH

By Robert S. Persky
Robert S. Persky

DEFENDANT'S
EXHIBIT
U. S. Dist. Court
S. D. of N. Y.

2

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DEFENDANTS' EXHIBIT AA.

M.F. Educational Circular No. 173

E 657

NEW YORK STOCK EXCHANGE

Department of Member Firms

March 15, 1963

TO: Members and Member Organizations

SUBJECT: Responsibilities of Firms Introducing or Carrying Accounts on a Disclosed Basis; Problems of Accounts of Corporation Officers.

When accounts are introduced by one member organization to another on a disclosed basis, important responsibilities may fall on the introducing firm, but in the view of the Exchange the accounts are actually those of the carrying firm. This must be clear on the letterhead of confirmations and statements. The Exchange expects the carrying firm to be responsible to the customer for liabilities arising from the account, even though the carrying firm by virtue of an agreement with the introducing firm may look to the introducing firm for making good on certain types of liabilities.

Rule 405 requires that through a partner or officer a member organization must (1) use due diligence to learn the essential facts on every customer, order, or account carried, or person holding power of attorney; (2) approve the opening of accounts; (3) supervise diligently all accounts. Supplementary material indicates ground rules for two alternative relationships between an introducing firm and a carrying firm.

The first alternative is when a clear understanding exists between the introducing and the carrying firm that the carrying firm will obtain essential facts directly. In this case, the introducing firm is relieved from the responsibility in points one and two above. The most frequent use of this alternative is by a member primarily engaged in floor business who may introduce to a carrying firm some public accounts which are serviced by personnel of the carrying organization. In this event, the carrying firm has responsibility for supervision of the account. If the accounts, however, are serviced by an introducing firm the partners or officers of the introducing firm, as well as the carrying firm, retain relevant responsibility under point three above to supervise diligently.

In the second more commonly used alternative, the carrying organization may treat the introducing organization as though it were its branch office for the purpose of learning essential facts

and approval of accounts. Under these circumstances, the introducing firm must learn the essential facts, and a general partner or an officer in the introducing organization must give an approval for the opening of the account. The information obtained must subsequently be passed upon by a member or allied member in the carrying organization and any further inquiry which the carrying organization might feel is desirable should be made. The mere fact that an account is being introduced by another member or member organization does not justify the carrying organization's opening an account.

As a practical matter, this means that the carrying firm must know that it can rely on information from the introducing firm. There are several ways that the carrying firm may so assure itself. First, by inquiry the carrying firm may determine that the introducing firm maintains an appropriate system for supervising and controlling the gathering of essential facts and their report to the carrying firm. The guide to supervision recently published by the Exchange points out a number of elements which should be present in such a system. A second possibility would be for the carrying firm also to perform a review function such as bank reference checks, or to spot check essential facts in a sampling of introduced accounts. Observation of the completeness and care with which new account cards and order forms are filled out and the promptness with which essential documents are filed will also help indicate the introducing firm's performance. Alertness concerning account activity and review of order blotters, monthly statements, promptness of payment, etc. can also be helpful. Another sound practice is to spell out in the agreement between the two firms the exact responsibilities of each.

Under this second alternative, the introducing firm has clear responsibility to gather accurate customer, account, and order facts and to "supervise diligently all accounts", with all that this implies for the maintenance of an appropriate system of instruction and control of employees and review of their handling of accounts. Thus, the partners or officers of the introducing firm are responsible to the Exchange under Rule 405 for any failure in good business practice within their firm even though in some instances this responsibility may also fall upon the carrying firm.

A recent disciplinary case is an illustration.

Over a nine-month period, an officer of a listed company recommended several accounts for third parties to a partner of an introducing firm, who in turn introduced them on a disclosed basis to the carrying firm. In one instance the new account card information was incorrect as to address and occupation, and was sketchy in other respects. The partner of the introducing firm permitted

the corporate officer to give all new account information and most orders for these accounts without obtaining evidence of his authority to do so and with only rare contacts by telephone with the persons in whose names the accounts were carried. The transactions in the accounts were entirely in the stock of the company of the officer, and were mostly short sales. From time to time stock registered in the name of the officer or his family was received in the accounts and checks paid from the account usually bore second endorsements by the officer. Despite these circumstances, neither the introducing nor the carrying firm made special inquiry concerning account or order facts.

The Exchange determined that the partner of the introducing firm had not used due diligence as required by Rule 405, and had not observed principles of good business practice as required by Rule 401. He was severely disciplined.

One account had been introduced on a disclosed basis to Firm A over an extended period, and then to Firm B for a much shorter period.

The partner in Firm A who approved the opening of the account and was responsible for its supervision did not check the new account facts supplied by the introducing firm, and did not assure himself that the introducing firm had done so. Although initially he did not know that orders for the third party's accounts were being given by the corporate officer, he learned it later. Over a longer period he knew that stock in names of the officer and his relatives was being received in these accounts, that the officer was a second endorser on most checks, that short sales were being made in the stock of the officer's company, etc. The Exchange found that in failing to be more diligent concerning new account facts and supervision of the account, the partner of Firm A had violated Rule 405. He was also severely disciplined.

The partner in Firm B who approved the new account and was responsible for supervision similarly failed to make inquiry about the new account facts, and did not check on whether the introducing firm had made proper inquiry. A few of the facts concerning the conduct of the account at Firm B should have stimulated additional inquiry - but these facts were not reported to the partner by his employees. This partner was also disciplined for not having exercised due diligence under Rule 405, and for not having an effective system of control of his employees, a violation of Rule 344.

Frank J. Coyle,
Director

DEFENDANTS' EXHIBIT BB.

E660

Example 1

(from Blackboard in Marcus' Examination)

Jan 3	Put	$10,000	in Account
Jan 4	Buy	$10,000	X Corp
May 3	Sell	$10,000	X Corp (all)
May 3	Buy	$10,000	Y Corp.
July 3	Sell	$10,000	Y Corp (all)
July 3	Buy	$10,000	Z Corp
July 4	Sell	$10,000	Z Corp (all).

6 trnos - annual turnover

12 trnes - if it had been on margin

DEFENDANT'S
EXHIBIT
U. S. Dist. Court
S. D. of N. Y.
BB

DEFENDANTS' EXHIBIT CC.

E 661

Example 2

(From Blackboard in Marcus' Examination)

$10,000 on Calls Atl. Rich. @ 100
Price per Call $10

Calls to buy 1000 sh. Atl. Rich @ 100; Price of call $10,000

Price of Atl. Rich. goes to 105

Exercises Calls - Buys for $100,000

Then Sells Atl. Rich. fo $105,000

Cost of Calls + Stock = $110,000

Capital Turnover on this 11 times

DEFENDANT'S
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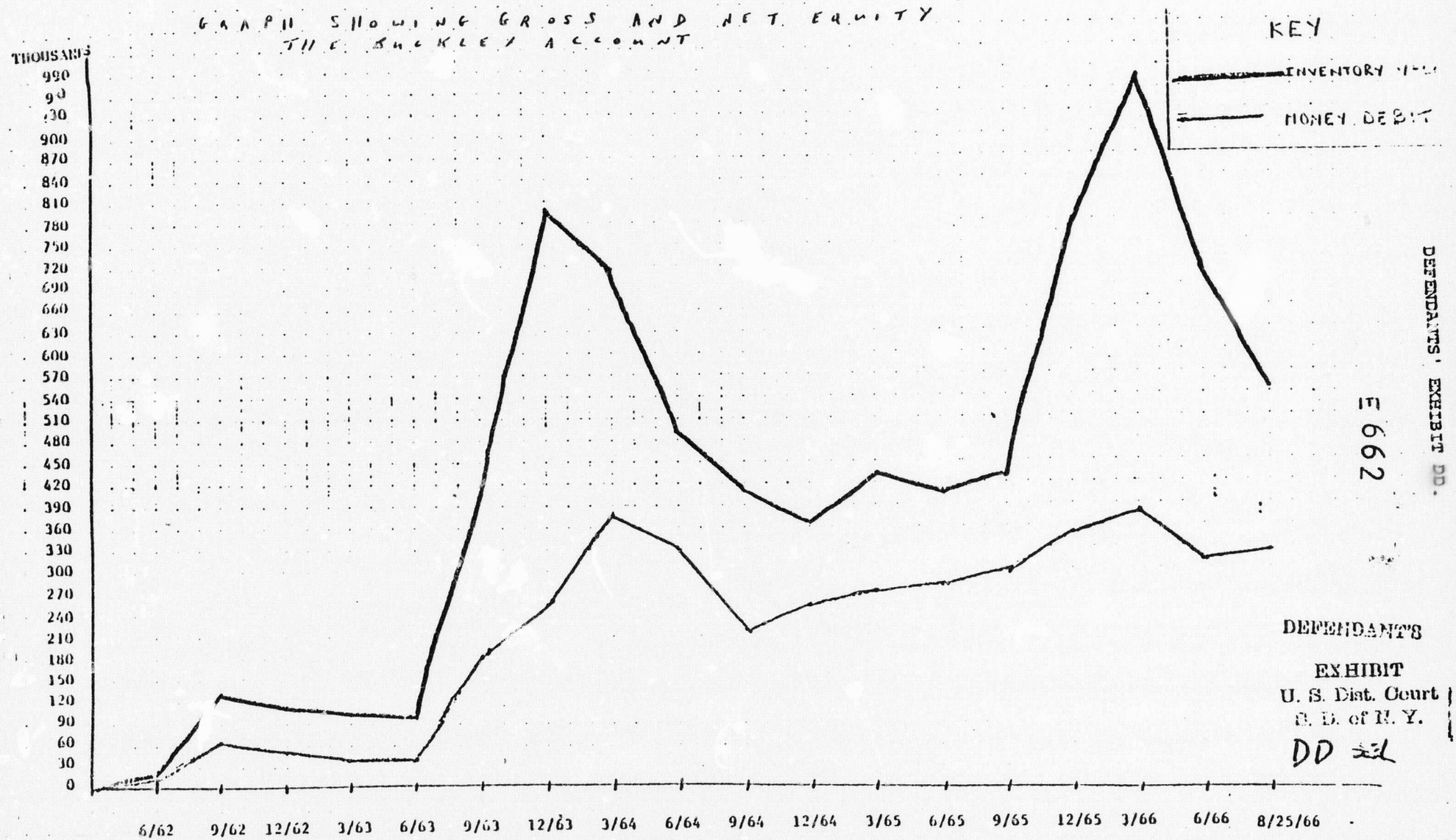
U. S. Dist. Court
S. D. of N. Y.

CC ~~not~~

GRAPH SHOWING GROSS AND NET EQUITY
THE BUCKLEY ACCOUNT



DEFENDANTS' EXHIBIT DD.

ET 662

DEFENDANT'S
EXHIBIT
U. S. Dist. Court
S. D. of N. Y.
DD

DEFENDANTS' EXHIBIT EE.

INTER-OFFICE MEMORANDUM

EE

AE663

GOLENBOCK AND BARELL

TO ACS

DATE 10/1/69

FROM LWW

RE Newburger, Loeb with David Buckley

As related to me by Mr. Leo Stern at Newburger, Loeb, the following are the facts:

David Buckley was a customer of a brokerage house for whom our client cleared. Buckley is a fairly high salaried executive at Lever Brothers and Buckley's father was a former director and officer of Georgia Pacific.

Buckley's account was very active and apparently dealt in many speculative securities. In the summer of 1966 there were two accounts -- one for Buckley and one for his wife showing total debit balances of $280,000 to $290,000.

At the present time those accounts have ~~falling~~ debit balances as a result of accrued interests -- Mr. Buckley $173,083; his wife $179,906.

Mr. Buckley's attorney is a Mr. Ryan at Webster, Sheffield (582-3370) to whom I spoke on Friday. Mr. Ryan is to leave on vacation this week and in his absence the matter is to be handled by Mr. Holtzschue. Ryan told me that Buckley owes money to ~~one~~ brokerage houses and other creditors and is in fact insolvent. However, he does not want to file a bankruptcy petition and thus Buckley's father is attempting to make good on some of these debts.

The accounts of the Buckleys at Newburger now contain 13,800 shares of Westfield. In addition to the proceeds from the sale of those shares, Mr. Ryan said that Buckley, Sr. was willing to pay $25,000.

Our client (Mr. Stern) takes the position that at the time present prices of the Westfield stock is worth approximately $69,000 which leaves a total debt of $283,989 against which the $25,000 payment would be made.

Mr. Stern felt this was not sufficient payment and of course, I agreed with him but told him that if we could

satisfy ourselves that Buckley was indeed insolvent, we would have to be prepared to take considerably less than $283,989.

Please contact the attorneys for Buckley and attempt to obtain a financial statement. Mr. Ryan indicated he would provide this and I think we should press for it in view of the fact that the sole reason for us settling is the inability of Buckley to meet his obligations and the threat of his filing a voluntary petition in bankruptcy.

Before you make the call, please talk to me and I will give you some insight into the thinking of Buckley's attorney.

Thank you.

LWW

DEFENDANTS'
EXHIBIT
U. S. Dist. Court
S. D. of N. Y.

DEFENDANTS' EXHIBIT GG.

INTER-OFFICE MEMORANDUM

GOLENBOCK AND BARELL

E 665

GG

TO ACS

DATE 3/27/70

FROM LWW

RE Newburger Loeb v. Buckley

Charlie Gross was in the office yesterday morning and said he would like some pressure applied to Buckley. Only this way can we get a better settlement proposal.

Apparently the loans that are shown on Buckley's statement are guaranteed by his father who has put up collateral for the loans.

Do you think we should commence proceeding and examine Buckley as quickly as possible in order to move this matter along?

Let me have your thoughts, please.

Thank you.

LWW

DEFENDANTS' EXHIBIT HH.

28-G

E 666

recently for Pfister

Mr. Cartman addressed meeting.
Reporting on current financial situation of Pfister.
Current balance sheet still in formation.

"Miracle" in transaction of certain assets to WE Hutton.
Who have plan in works. No material problems in the conversion.

$1.6 million
N-L allowed Hutton to use monies necessary to accomplish differences btwn W-L inventory & purchase quantities.
used to repay $ remain.
Cost of current common is presently undistributed.
Dividends declared by & agist N-L.

WEH wants to continue N-L assets.

November operating statements - reduced sales & mfg. costs.
if October revenue were duplicated in November, & costs of November duplicated, NL wld lose $10,000 or such modest sum.
November operating loss; $60,000 to $80,000 (operating loss)
" revenues: ½ October revenues
This for in December — revenue running at October rate.
($20,000 per day).

Extraordinary loss re: sale of basketball team.

Opportunity: pro forma balance sheet on liquidation & discounted net present value of assets based on balance sheet

M-H's Richter asked to leave meeting
- How to save things not to benefit of N-L.

DEFENDANTS' EXHIBIT HH.

~~In getting up the P+L + Steel fr~~

E667

If N-L remains a viable entity, there is a substantial recovery potential. Firm trying to search & recover what WEH is owing. Search team telling in terms of $1 Million. Optimistic. Takes time & depends upon continuing name of N-L. Very important that firm make strict collections in name of N-L.

- Also there are claims agst N-L that will be discovered. Probably a net + to NL of $200,000.

- Strongest capital segments re: NYL demands & meeting obligations

- Firm will continue to sell proprietary securities to raise cash. Has $300 to 400M available over the next several months. Le securities in trading & investments; CP assets; Hd prices, assets.

- At present time $600K ~~equity~~ excess in deficiency at WE Hutton but it may is not working capital.

$350,000 extended by N-L
650,000 " " 3 subordinated lenders

WEH will retain if necessary to N-L's survival.

- This gives that additional Ltd. prices now gone.
Starting to erode capital attributable to subordinated lenders.
If losses not stopped, no capital by end of 1st quarter of 1971

DEFENDANTS' EXHIBIT HH.

E 669

If liquidated now, all subordinated capital will be gone.

1ST note to subordinated lenders due at the end of 1990.
If subordinated lenders don't go along that is the end of the company & goes into receivership & firm liquidated.

? After Kirkland wants commitment that GP's will pay subordinated lenders. Max Fueshel
AR wants to make sure that subordinated lenders get OC. approval before being paid.
Max don't think a GP can restrain self from paying subordinated lenders. Max says that if subordinated lenders don't go along, there must be receivership.

— Bottom line: there must be retention of the subordinated capital and LH capital (of renewals thereafter)

— [(X) On 10/31, liquidation value of N/L was $200,000 all else book vals. Book value didn't take into acct $1,700,000 of write downs and losses. For example 10/31 balance did not include $411,000 Allocation to One Use Ltd Partnership's losses in excess of WEIT; etc. $100,000 loss in December; etc.

— At the moment $600,000 "equity" at WEIT. If it goes back, who owns it? Customers? Other lenders? Sports of N.Y. (dividends on escrow) If anything, result of WEIT is that what flows back is for the Bd. plans.

DEFENDANTS' EXHIBIT HH.

E 669

- 3 subdivided leases + all subdivided lease assts (thru' N-L) went to WE+H.
  ↓
  one ltd ptnr - Joseph Carté
  one subdivided asst.

- asst of Betty Newberg & asst of Joseph Carté → represented by Attorney Rochelli
  equity in their assts were ~~appointed~~
  transferred to WE+H as their larger bal-capital.

In the case of Mr. Earle, Richard Davis were subdivided leases of N-L these two made agents w/ WE+H to become subdivided leases of WE+H & no longer as relatives of N-L.
$26,000.

Earle - a ltd. ptnr - his ptnr's capital & he agreed to become subdivided leases of WE+H. M L

Davis ~~subdivided~~ ltd ptnrs ~~leases~~ of N-L; these two assts as capital of N-L be assigned as part of N-L subdivided leases agreed to WE+H. They took their salaries & put it up at WE+H.

DEFENDANTS' EXHIBIT HH.

E 670

Fred Kaye - on acct, executive. He can't act as broker or dealer - retention covenant.

Max thinks that Coldiron office is also - too much expenses.

Max discussed getting rid of Coldiron office. Fred Kaye has offered to buy for $400K.

Cottman - feels that only one more $ to run to firm.
But Newburger hopes for Steve Cottman.

NYX requests

(1) All scheduled withdrawals of firm to be delayed until end of 71
(2) maintain excess net capital of $400K
(3) apply mgt. personnel to quickly

Must be satisfied of compliance

+ any capital which may be withdrawn up to 25% 12p days. ("scheduled capital withdrawal"

If withdrawal violates capital requirement, immediate suspension.

DR: notes $500K is a close call. Language in rule "unusual circumstances"

DEFENDANTS' EXHIBIT HH.

E 671

Mr. Richards for the exchange: N-L

Believes, based as of end of 10/31, a deficit not have the requirement.

Probably does not have it today.

Mr. Richards - don't have enough info to determine whether suspension necessary.

Firm has been instructed to have plan by deficit height. Obtain suspension. No plan head today.

Max Freund: only plan we envisage - extension by 1/4 pts., by one year of this demand. Can be conditioned on similar extension by subordinated lenders. Plus need broad base pmt.
Until broad base pmt reached, no one will see his money invested & go down the drain.

DEFENDANTS' EXHIBIT HH.

E 672

Discussion re: whether Perley firm should represent Debtor in litigation. Max didn't want to replace Perley, Max won't charge firm unless & until firm gets on its feet.

Discussion re: tax refunds. From Max: with refunds coming back - who has right to them? Firm owe personal deductions & firm creditors. If not money in firm, they all deplete their individual creditors. Reynes discussion of individual creditors of good partners b/c they may have priority over firm creditors. BK says this isn't so, Max wants a statement that Ltd partners & subordinated lenders to extend time.

BK says - if you want a commitment, we have to know what GP's will do.

Ltr. 2/11-4 goes down the road, many claims will be made against all general partners particularly one who won't help today (Chester Cross).

Risher + Mark - 25 people cut from payroll yesterday. Risher & Mark also dismissed.

Ft side discussion - one week to come up w/ plan.

DEFENDANTS' EXHIBIT HH.

E 673

Can't get capital until stop the erosion of capital. Must cut costs. Then can have profitable firm. Then can get new capital in;

HK wants to make sure that tax refunds go to firm first & not to creditors / investors. Max won't put his $ in firm & have Ltd. pictures take it out

HK: if you want Ltd. pictures to lend capital, GP's must work confidence by giving tax refund money to firm.

Dan Exley - represents Rothschild

DEFENDANTS' EXHIBIT HH.

E 674

DAY 8: What if acceptable plan not provided by target (Close of Evans)

Examiner will be sent in the first thing tomorrow morning. Will claimant testify in capital contempt. If yes, suspend on Monday morning.

If no capital reports, probably not suspend & go-along w/ 12/15 deadline & on 12/21, N-L will be suspended.

One method: sell seat & get out / exchange,
Another: sell immediately - go into liquidation.
We definitely want a plan. On 12/21, Ltd. plan. Against experts,
Must have management & capital plan w/ short-term problem.

Discussion among United States 8

DEFENDANTS' EXHIBIT HH.

E675

DK: Exhibit 'e allowed to continue. Keep what has Htl ptns to from corporation, television human, & true Cartoon.
He's pushing Mich & Kisher - they can get the $1,000,000.
Dem save the name.

Steifel: No desire to let the CP's continue because he requests an extn. As, withdraw petition, they are in a legal position to dissolve the ptnp. If on Monday we are suspended, O.K. Steifel doesn't think there's much to talk w/o inside a name.

Nobody - this can really turn what is in D-L contract,

AR doesn't want to throw in the sponge while else is what the balance of the suits are.

Somebody else (Jerry) don't want to do anything until we know what N-L has.

DEFENDANTS' EXHIBIT HH.

E 676

Cuba possibly ~~?~~ voluntary liquidation & dissolution w/o receiver.

Fidura doesn't want anything to do w/ ~~this~~ general matters, & vice versa.

We can tell them that estate will ~~have to~~ ~~prop~~ ~~to~~ ~~dissolve~~ if resign. Then estate will have to bring in receiver to protect ~~assets~~.
~~But pltf~~

Nuhn & Cuba called in - if they can make N.L. voable & make $1,000,000 available. They take over & give ltd. partners in excess of $20 or $1 on capital. Stock in Bacardi Corp. would have to liquidate part or all of stock to provide cash necessary for the business.
They would be active mgt.
Any mgt such to bring in one outside interested who is respected, with interest or likelihood removing w/ the firm.
They brought Beckwith in & they feel he's good on legal & compliance.

DEFENDANTS' EXHIBIT HH.

E677

Ray believe that salesmen will continue on.

A. Shulman - a 6th partner -
the only person who failed severely was Fred Kaye. Anyone else has been a loser. Recognized loyalty & Candor in Fred Kaye.
Shulman has been w/her 2 years this February.
In Kesler's proposal Fred Kaye w/ be a part of equity of Kesler. Also Jeff Cohen could have such a part equity.

Kesler & Mark in position to have consistent by
transient.
Ray to letters being transient

DEFENDANTS' EXHIBIT HH.

E 678

44 plus $1,750,000 at stake.

Present - grand picture not completely
- as far as we understand. Perhaps a stock
position for them. We don't care who
gets what stock says Stuart.

Bank officials losses flow in 1930 and attachable &
earlier periods what broke the firm.
AK believes that you can prove this is
CO's fault.

DEFENDANTS' EXHIBIT HH.

E 679

Arthur, Dan Quisenberry, & Steph & Lelia to Cedar.

They to get

Monday morning

E679A

DEFENDANTS' EXHIBIT II, SEE,
PLAINTIFF'S EXHIBIT 97.

DEFENDANTS' EXHIBIT JJ.

28-I

E 680

2-17-70

(1) Miss Bleich - July 71, 72, 73

3 story - 6 tenements

555 Brook ave. Bronx

South Bronx (Betw Westchester & 149th St.)

Urban Renewal.

(only one letter)

Vacant & Boarded

Have letter Mailed as Soon as you receive notice of settlement?

DEFENDANT'S
EXHIBIT
U. S. Dist. Court
S. D. of N. Y.
JJ

DEFENDANTS' EXHIBIT JJ.

E 681

20% - new equity
subscribed ~~equity~~ 100 ± in dollar
Problems - Settle, Security, Bob Stone -
rent / equity.

Bob Stein ₱300,000 pay back & working
~~Andy~~ Bob N. pays back deferring
~~Bob Wirth~~
Andy - pay back 8/70 of tax refund.

Principal payable over 5 years
interest 2pts over prime g'teed.

(7)

DEFENDANTS' EXHIBIT JJ.

E 682

Fleetwood [illegible] scheduled Garden meeting previously at
Normandie at which Neal Finch attended N. as per 2:30
was still going on.

(2)

DEFENDANTS' EXHIBIT JJ.

DEFENDANTS' EXHIBIT JJ.

E 683

400,000 73
500,000 74
800,000 75

} 100% on dollar on basis of cash out as of 11/30/70.

~~to~~ permit + 2% ceiling 1970 if cannot, if cumulative w/i subsequent

Nelli lender must put up $1M out 5% if/cannot. due 12/31/73.

Stapel wants a preferred entire position. But AR may be connecting Stapel. (claims for mis-leading, etc.)

GP's to put in $900K of tax refunds.

Pendy is the danger for Risher & Mack.

6 mths notice to Ltd. partners is up. So he claims to be senior to the limited partners. If he's senior, it's because of early waiver of 1960, as Bixby told them they signed this agreement that they would have to add office loss.

If max tax refund money goes in, GP's will be released.

(3)

DEFENDANTS' EXHIBIT JJ.

DEFENDANTS' EXHIBIT JJ.

E 684

We get a committed debenture F/O 200,000 shares (16 2/3% of stock) - right to convert & public offering.

Both steps on as a 1/31 adjustment. But as part of mgt.

Bank would like to stay as a RR

Staff acts as to sign up today subject to the agreement / submitted shares.

---

(1) Std. futures investments at 11/30/70 (market value / securities on that date). $2.3 Million.

(2) Debenture note - full amt; paid + 2% / annum - ceiling of 9%.

(3) Paid: 12/31/73 400,000
12/31/74 800,000
12/31/75 Balance
~~500,000~~

Fin projects.

~~[illegible]~~ ~~[illegible]~~

So they get use of money for 3 years

(4) S/M - stock from Fixlayi - son in law of Bamdi ram. Bamdi ram stock - not voted a dollar, but full.

DEFENDANTS' EXHIBIT JJ. E685

(5) Common - 200,000 shares granted to each person participating in Exhibit A.
(1 million shares already issued to at the end 16 2/3% of stock).

Rosen & Muh projections

pre tax / pre interest	1971 -	2 Million
	1972 -	$600,000
	1973	1 million
	1974	1 1/2 million
	1975	2 million

Capitalization

- 1,000,000 common — divided up equally among (17 1/2% to old partners)*
- $800,000 of 5% cumulative preferred stock as part of deal of two Underwriters.
- subordinated lenders extending their $800,000 for 2 years at 8% current rate, in tranches
- $1,000,000 - new lender — 5% of equity, old partners put in balance of $900,000 and $900,000 in tax refund money.

Pay some out beyond new lender does ←

(See 6.1 & 6.4 re making up deficit).
Deficit created by passage of legislation that initially they don't make contribution (9.4)

* century management 22%

DEFENDANTS' EXHIBIT JJ. E 686

Assets & liabilities to old new corporations.

Risher & Mack $35,000 / year to each

* Neil Finch withdrew in November. He thinks he's either a substantial limited or a limited partner depending upon true real agreement.

Atlas: ① 2004 paid
② 213K on June 1 on 18 equal monthly payments at 10% interest
for a $6 million lease.

Hobbs & Durbin represented by Willkie, Farr.

(X) Staff recommendation to suspend Monday, will testify to on matters on Monday.

Examination showed us to be in compliance.

DEFENDANTS' EXHIBIT JJ.

Steel attends the meeting

E 687

— Subordinated lenders have not signed as yet
- may want more time to consider

Extension to be requested on Monday
by Robert Neuberger and Robert Steel,

Represent

Subordinated debentures of recapitalized firm M L & Co. due
matures 12/31/75
installments of principal to be paid as above.
such installments paid pro-rata
Quarterly interest out of earnings to greater
Appropriate provision for acceleration
Covenants on terms reasonably satisfactory to counsel,

Value of interest as limited partner on books

Conditioned on subordinated debt senior to mezzanine of $ under
plans of reorg approved by DPX
subordinated lenders to extend terms to 12/31/82
G.P.'s all current & tangible assets
subject to debts.

If rights expire from it go through, claims
of employment due and payable
with same rights as of this day.

DEFENDANTS' EXHIBIT T.

E 688

(1) Report to Strook, Eisenberg & Kirkland re Estate fund Grants of legal fees Steffel granted by use without upon plan going through.

Nobody knows what annual fees are to this date. Steffel does not feel that plan will go through.

1248
1440
738
1,000,000
2,331,000

1/4 of high pay.
12½% of 1/4

75
100,000

12½%
200

(2) Steffel does not feel that deal will be accepted by the Exchange.

DEFENDANTS' EXHIBIT JJ. E 689

If plan doesn't go through Subordinated lenders will sue Erle in B/K court to transfer mines to the NYX.

(*) Mostly loaned at Stock exchange.

Return to Jan. 5.

Jeanne C. Donoghue.

✓	413,000	– Finch	551,273	
✓	100,000	Erle	718,585	matures 12/~~31~~/20/70
✓	75,000	– Donoghue	75,000	
✓	75,000	– Bleich	15,000	
✓	60,000	{ Weeks	100,000	
✓	60,000	{ Bonn	100,000	
		~~Sokol~~	100,000	
✓	360,000	Quante	449,000	
✓	~~225~~,000	– Shulman	250,000	
✓	250,000	– Cate-Lester		
✓	682,000	Cate-Mars	650,000	
	2,300,000			
	1,455			
	845			

$\frac{845}{2300} = 1/3$

75
2100
31
23175
69

413,000
682,000
360,000
1455000

DEFENDANTS' EXHIBIT KK. 29-IT E 690

[illegible]
[illegible]
U. S. [illegible] COURT
S. D. [illegible]

K K -X

The undersigned have heretofore retained Stroock & Stroock & Lavan, Daniel Eisenberg, and Arthur Richenthal to endeavor to work out a reorganization of Newburger, Loeb & Co. When and if a reorganization is worked out and is approved by us, and approved by the New York Stock Exchange, we agree to pay to said attorneys, in proportion to our interest in Newburger, Loeb & Co., the amount of their legal fees; they are to determine among themselves how the legal fees are to be divided between them.

It is understood that no legal fees are to be paid unless a reorganization approved by us and approved by the New York Stock Exchange has been completed. In any event, we agree to pay pro rata any actual disbursements by said attorneys.

Dated: December 17, 1970

Donald L. Newborg, as Trustee under the Last Will and Testament of Lester M. Newburger

George B. Levy, as Executor and Trustee under the Last Will and Testament of Morris Newburger

Gerald M. Frank

Willard S. Irle

Jeanne G. Donoghue

Mabel Bleich

Jack Wachs

Saul A. Brown

Joseph W. Quarto

Philip Shulman

DEFENDANTS' EXHIBIT LL.

29-EE

E 691

December 31, 1970

Newburger, Loeb & Co.
5 Hanover Square
New York, N.Y. 10004

Gentlemen:

Pursuant to the provisions of Paragraph 7.1(b) of the Restated Articles of Limited Partnership of Newburger, Loeb & Co. (as amended) dated as of February 26, 1970, I hereby notify you of my withdrawal as a Limited Partner from said partnership effective as of June 30, 1971.

Very truly yours,

Mabel Blaich

DEFENDANTS' EXHIBIT MM.

DEFENDANT'S

EXHIBIT

U. S. DISTRICT COURT
S. D. N. Y.

29-DD

E 692

December 31, 1970

Newburger, Loeb & Co.
5 Hanover Square
New York, N.Y. 10004

Gentlemen:

Pursuant to the provisions of Paragraph 7.1(b) of the Restated Articles of Limited Partnership of Newburger, Loeb & Co. (as amended) dated as of February 26, 1970, I hereby notify you of my withdrawal as a Limited Partner from said partnership effective as of June 30, 1971.

Very truly yours,

Jeanne G. Donoghue by
Charles Gross, Atty. in Fact

DEFENDANTS' EXHIBIT NN

Document distributed December 21, 1970 as having been hammered out that night.

FINLEY, KUMBLE, UNDERBERG, PERSKY & ROTH

DEFENDANTS' EXHIBIT NO. F 693

LEON FINLEY
STEVEN J. KUMBLE
NEIL UNDERBERG
ROBERT S. PERSKY
HERBERT F. ROTH
DONALD ZIMMERMAN

LOUIS BECK
NORMAN ROY CRUTMAN
THEODORE J. GREENE
ALAN M. GELB
B. HOWARD RAPPAPORT

RICHARD E. CARTER
PAUL R. ALTER
LEWIS H. SANDLER
STANLEY L. GOLDEN
BENJAMIN IRA GERTZ
JOHN P. A. MARCIN
DONALD S. SNICER
HOWARD L. BASS
ROBERT E. PEDUZZI

STEPHEN A. WEISS
L. MARTIN GIBBS
MICHAEL A. BAMBERGER
ROBERT L. FALKER
LENORE D. KALMUS
SHELDON M. GOLDSTEIN
WILLIAM F. ROSENBLUM, JR.
PETER J. LANE
STEPHEN G. DICKERMAN

477 MADISON AVENUE
NEW YORK, NEW YORK 10022

755-7600
(AREA CODE 212)

CABLE: LENFINLEY
NEW YORK

December 31, 1970
7:35 AM

Re: Agreement between Newburger, Loeb & Co., Inc. and Newburger, Loeb & Co.

Gentlemen:

Enclosed please find copies of the Agreement of December 31, 1970 having reference to the above caption, revised in accordance with our meeting of last night which ended at 5:00 A.M. this morning.

For purposes of execution, we have designated the following offices for purposes of "signing" copies:

UPTOWN:

Rosenman Kaye Petschek Freund & Emil,
575 Madison Avenue (see Andrew Doskow, Esq.)

Finley Kumble Underberg Persky & Roth,
477 Madison Avenue (see Robert S. Persky, Esq.)

DOWNTOWN:

Stroock & Stroock & Lavan,
61 Broadway (see William Perlmuth, Esq.)

Newburger, Loeb & Co.,
5 Hanover Square, 8th Floor (see Larry Berkowitz, Esq.)

The above locations are for convenience only. Your client may sign at your office.

Counsel whose clients are out of the country or unavailable for signature should sign as counsel as follows:- John Doe as counsel signing subject to receipt of written authority from client or actual signature of client.

All execution copies should be delivered on or before 2:00 P.M. to Larry Berkowitz, Esq., of Newburger, Loeb & Co., 5 Hanover Square, 8th Floor, New York City.

Very truly yours,

FINLEY KUMBLE UNDERBERG PERSKY & ROTH

By: Robert S. Persky

Robert S. Persky

RSP.g
encs
Hand Delivery

DEFENDANTS' EXHIBIT NN.

Transfer Agreement of
December 31, 1970, see
Plaintiff's Exhibit 24.

DEFENDANT'S
EXHIBIT
U.S. DIST. COURT
E.D. OF N.Y.
PP 42

January 15, 1971

BY HAND DELIVERY

Robert S. Persky, Esq.
Finley, Kumble, Underberg, Persky & Roth
477 Madison Avenue
New York, New York 10022

Re: Newburger, Loeb Reorganization

Dear Bob:

This letter will confirm the agreement of the transferee corporation, expressed to me yesterday afternoon by Messrs. Berkowitz and Muh in response to my letter of January 14, that Schedule C to the reorganization agreement will be amended to include all known or anticipated claims against the partnership and that Schedule A-2 will be amended so as to incorporate by reference any liability which may exist or eventuate in connection with the Schedule C claims and litigations. It was also agreed that the transferee corporation would assume, at its expense, the defense of the Schedule C claims and litigations. I look forward to receiving the amended schedules early next week.

In view of our agreement, the objections set forth in my letter of January 14 are withdrawn. I appreciate the cooperation shown in resolving this problem.

Sincerely,

ACS:mn

Arthur C. Silverman

cc: Robert Newburger
Daniel Eisenberg, Esq.
Arthur Richenthal, Esq.
Robert D. Steefel, Esq.
Laurence Berkowitz, Esq.
Mabel Bleich
Jeanne Donoghue
William Dilger

DEFENDANTS' EXHIBIT RR.

28-K

E 696

DEFENDANTS' EXHIBIT RR.

(1) Maryland Nat'l Bank Card — unlimited funds
(2) Sentry — Merchant Funding
(3) Isaacs — $6000
(4)

Robert Mark	427-6484
Larry Rabinsky	PA 5-7178

Office Rent w/ Dilge

(1) Firm worth 325 —
debt to equity
would need minimum of 30%
equity, 70% debt.

(2) Legal stay liquidation
petition Tues —.

8 to sell Bratton
(A)

(2) Factoring Mark — no experience in
factoring industry. As a result
office exp. — minimum / 3 years
experience. They've had none.
Exchange will stick to this.

(3) Can't be approved by the 25th.
Possibly by the 28th, next

(4) Must immediately.

(5) Don't want to suspend them.

(OVER)

DEFENDANTS' EXHIBIT RR.

Orville Spurlin — L 697

Jewel
Fillmore

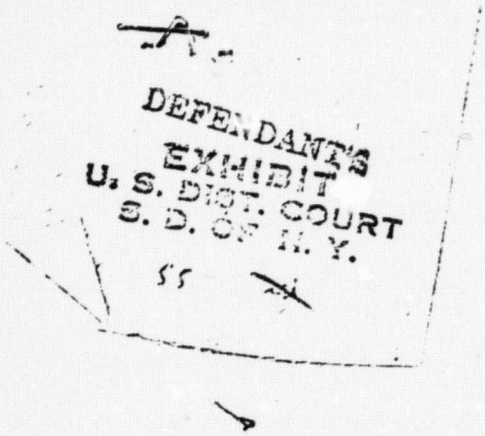
26-50-65] 3

home 92 25 15]

Both to call in advance.

Phil Mandel 516 - MA1 7285

Pershy - lost 49% dvl limited partners to be in the form of series A preferred stock.
- he is willing at some point to "stand and argue w/ Charles as to what's owed him.
- would not desire Charles' interest if deal were blown - several people would be looking for his head



DEFENDANTS' EXHIBIT SS.

E 698 29-Z

January 15, 1971

BY HAND DELIVERY

Robert S. Persky, Esq.
Finley, Kumble, Underberg, Persky & Roth
477 Madison Avenue
New York, New York 10022

Re: Newburger, Loeb Reorganization

Dear Bob:

This letter will confirm my advice yesterday afternoon to Messrs. Muh and Berkowitz that just prior to speaking to them I had been informed that Mrs. Donoghue had telegraphed to her brother her rejection of the proposed reorganization.

Last night I called Mrs. Donoghue in Melbourne, Australia and verified that she had indeed rejected the plan. Despite a lengthy discussion, she did not change her mind, though she did promise that she would seriously consider again my advice that she consent to the reorganization. I immediately called Larry Berkowitz and informed him of the result of my conversation with Mrs. Donoghue.

I think that one of us should inform the Exchange no later than Monday of Mrs. Donoghue's rejection.

Sincerely,

ACS:mn

Arthur C. Silverman

cc: Robert Newburger
Daniel Eisenberg, Esq.
Arthur Richenthal, Esq.
Robert D. Steefel, Esq.
Mabel Bleich
Jeanne Donoghue

Rpt's Ex 28-K-2 for ID
4/12/74

DEFENDANTS' EXHIBIT TT.

DEFENDANTS' EXHIBIT TT.

28-K-2

E 692

New/Look — Reorganization (1/22/71)

11:30 AM

1. Oral discussion of reorganization agreement (of changes)
   a. W/ extension (Tentative) to come before Exchange on Feb. 1, 197. — Even w/out Jean & Charlie Gross signing → approval would be granted re nine corp.
   a. Suit ag. Gross on mis representation when he became member of partnership

2. 11:55 - Brought up to date on Jean Donahue position so as to get into discussion w/ Mandel. Meeting called to try to persuade Gross (Mandel) to see the light.

   a. Mandel then discussed Gross' position
      1. Gross feels that being absent for time has been made scapegoat and object of resentment. (Mandel: If going to negotiate, should be obstructed by personal animosity)

DEFENDANT'S EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

E+ TT

2. Daylight: Gross has lost as much as anyone + put everything on line to help N/L. Put up committed capital + other capital to help

DEFENDANTS' EXHIBIT TT. E 709

Situation. Now left w/out working assets. ∴ Gross did not ~~ef~~ let others suffer at his expense. Hence can disagree w/ his actions, but not his purpose. Not admission that he made errors or mistakes. Hence resentment shouldn't get in way. Gross feels it was expedient to work up resentment against him.

Position: W/o w/out Jean Donohue, proposed plan is illegal, eg. creditor's rights, eg. Gross' rights. All signators, even if sign, still improper w/out Gross' consent. Prefers what he would get by liquidation, rather than what he would get by present plan. (Not bargaining position, rather a fact.)

Mandel feels no negotiation will work as interests are too diverse. "If hoping to go ahead w/ out Gross' signature, he would be prepared to stop it." "Gross does not feel that Donohue will change her mind.

DEFENDANTS' EXHIBIT TT. E 701

Q – How can Gross justify getting cash out of business when others not responsible for debacle. "Why should he, or other GP get cash when sub bankers are getting no cash.

Mandel: Should not talk about culpability. Rather should be viewed as distrib. under the agreement. His acct. must be taken as of date of his w/drawl. His extra capital – accounting should show he should get $300,000 – 400,000 Others feel he is entitled to on 230,000 + as of 12/70.

Capital balance

∴ What re assets, and in what order distrib, liabilities of other partners to Gross.

∴ If proper liquidation Gross would come out w/ substantial sum.

DEFENDANTS' EXHIBIT TT.

Gross- feels these are valuable warrants not on balance sheet as such But not sure. Opposed to others.

Fraction - if exist, have problem w/ valuation as no audited balance sheet as of this time. (Not intentionally excluded, if they were excluded.

Recently (~~Recently~~ wrote of balance sheet to reflect new status of co.)

Had once been suggested that they would take Mandel through the balance sheet.

c. Gross needs to be back in business. Work out a plan to get working capital & is willing to "take some kind of paper like other people."

Mandel:

Point: that if liquidation or bankruptcy Gross will get nothing." Therefore, Gross making a mistake.

Mandel: People on Exchange think a skilled liquidation will provide Gross w/ needed $.

DEFENDANTS' EXHIBIT TT.

DEFENDANTS' EXHIBIT TT. E 703

Q. - what if bankruptcy. Sub lenders are not sure they will get their amounts.

Bring it up - but Gross will get it handed to him in court. (Esp. Durbin would have strong case eg. Gross) → that denying that might have rights eventually.

(eg. Edwards / Durbin)

Gross feels he was left out. Argument over who represented Gross. Mankel cleared up that G & B represented only Donahue.

Gross concluded personally, but he could get something significant.

Others - Sell Gross wants to destroy all and move and reap what he can. Evidenced - by his want for liquidation.

DEFENDANTS' EXHIBIT TT. E 704

Mandel: "Not interested what is better - Rieng v. Liq) (Wants liquidation and nothing else

Q: Any basis on which Grossman let this deal go through other than by receiving cash as N/L can't pay cash equivalent.

A. Taxpayer's Gross weighed some but how and in what ext.

Mandel: I will not foreclose implied any type of deal."

"..Prime objective is to be back in business."

Would not make deal that would give same treatment as other partners that left during year.

Gross - Not interested in taking ruined stock of new state. Does not have eye for "any specific asset".

DEFENDANTS' EXHIBIT TT.

E 705

Gross: Put off by people coming into deal w/ out $ + other partners being given forgiveness for indebtedness.

Felt these are people who get a deal that he wants analogous deal to. Gross wants his benefit before these people get it.

Wants a good deal as gen'l partners

Reply: Others (gen'l partners) not satisfied but best they can do under circumstances.

Q. What does Gross base his opinion about liquidation will be best.

A. Eg. values preferred stock at 0.

(A-D 12[15]) Stresses effort to be "regarded as a creditor above." Never wants release of his obligation not to engage at other [illegible] House from N/L.

Now Complete Chain

DEFENDANTS' EXHIBIT TT.

DEFENDANTS' EXHIBIT TT.

E 706

"Mandel" Agreement breached by N/L and Gross' obligation (not to compete is no longer valid)

(a) N/L not in danger of bankruptcy

Stitel "If Gross doesn't hurt us, we won't hurt him"

a. Gross has possibly beaten him for Gross' negligence, etc., etc.

... This would be ironed over his future business activities

Mandel: "These claims don't cut much ice as to present negotiations".

If anything, once these settlements, writings will take care of future possible litigation.

"Under present modified plan (assuming cross stipulations) there is assurance that Gross will be in subordination of litigation."

DEFENDANTS' EXHIBIT TT. E 707

Bottom Line " Abuse ... fails ... suit,
... in bankruptcy & liquidation
... plan of this plan you
... through.

Mandel: "Clients doesn't have to be
a "King" "Loan is not going
to change his mind." "Blood
is thicker than water."

Mandel Case

Q: Can you get prelim. inj. from ct
pending arbitration.

Q. Can Grosso & L
start action ag.
one or other in
view of S/E x
Constitution.

Gen'l Cases " The "prelim remedies are
available prior to Commencement
to hearing date" (illegible)

Q Assuming inj available,
what would be bond
Ct

Doesn't think Gross
Could get one beyond arbitrate.
Have told Judge etc

-first try holding up a
wage transaction &
coming out to
be heard.

DEFENDANTS' EXHIBIT TT.

E 708

S Dist. – To go ahead immed to arbitration

If Unss. could get injunction held up for 15 months!
But what we get.
5 yrs → 2
[illegible]
[illegible]

DEFENDANTS' EXHIBIT UU.

1/20/71

28-N

E 709

CLIENT	
	Robert D Graffel } Estate of Morris Neuberger, dec'd
	George B Leonard
	Irwin J Lehrenfeld
JULIUS SCHNALL	
WAGMS BROWN }	ANDREW P. DAVIS
GERALD FRANK	DANIEL Eisenberg & Stephen Ross
Frankfurt Kilcullen + Eliscu	H. Paul BURAK - (Rosenman Colin)
	Charles E Lewis
	Michael A Bamberger - Finley, Kumble
MR & MRS POLATY	RONALD FRIED - MR & MRS Polaty
Leo Fickland Stern	Robert Muh
	Daniel Shapiro
JEANNE G. DONOGHUE	
MABEL BLEICH	ROBERT M. BIRNBAUM
	EDWARD D. TANENHAUS
	Missing
	Quarti
	Schulman
	Isle

DEFENDANTS' EXHIBIT VV.

29-U
E 710

FINLEY, KUMBLE, UNDERBERG, PERSKY & ROTH

LEON FINLEY
STEVEN J. KUMBLE
NEIL UNDERBERG
ROBERT S. PERSKY
HERBERT F. ROTH
DONALD ZIMMERMAN

LOUIS SECK
NORMAN ROY GRUTMAN
THEODORE J. GREENE
ALAN M. GELB
B. HOWARD RAPPAPORT

RICHARD E. CARTER
PAUL R. ALTER
LEWIS H. SANDLER
STANLEY L. GOLDEN
BENJAMIN IRA GERTZ
JOHN P. A. MARCIN
DONALD S. SNIDER
HOWARD L. BASS
ROBERT E. PEDUZZI

STEPHEN A. WEISS
L. MARTIN GIBBS
MICHAEL A. BAMBERGER
ROBERT L. FALKER
LENORE D. KALMUS
SHELDON M. GOLDSTEIN
WILLIAM F. ROSENBLUM, JR.
PETER J. LANE
STEPHEN G. DICKERMAN

477 MADISON AVENUE
NEW YORK, NEW YORK 10022

755-7600
(AREA CODE 212)

CABLE: LENFINLEY
NEW YORK

January 21, 1971

Arthur C. Silverman, Esq.
Messrs. Golenbock and Barell
60 East 42nd Street
New York, New York 10017

Re: Newburger, Loeb Reorganization

Dear Arthur:

I am in receipt of your letter of January 20, 1971 and appreciate the position that Jeanne Donoghue has taken.

It is our position that we desire to leave open all of the options until the very last moment. Specifically, we have informed officials of the New York Stock Exchange that Jeanne Donoghue will not sign. We have also informed them that we intend to proceed on the theory that she may exercise her perogative to change her mind at the last minute. Certainly, her brother, Charles Gross, may reverse his position at the last moment and instruct her to cooperate in this matter.

Since you also represent Mabel Bleich, whose position would undoubtedly be worsened by a liquidation of the firm, we feel that it is in the best interests of both our clients and

DEFENDANTS' EXHIBIT VV.

FINLEY, KUMBLE, UNDERBERG, PERSKY & ROTH

29-V E 711

Mabel Bleich and perhaps even Jeanne Donoghue that Mabel Bleich sign the extension agreement and send to the Exchange the extension letter requested at the conference had with Stroock, Stroock & Lavan yesterday.

Very truly yours,

FINLEY, KUMBLE, UNDERBERG, PERSKY & ROTH

By:
Robert S. Persky

rsp/br

cc- Mr. Paul Risher
Newburger, Loeb & Co. Inc.
5 Hanover Square
New York, New York

BY HAND

DEFENDANTS' EXHIBIT WW.

29-S

DEFENDANT'S EXHIBIT
U. S. DIST. COURT
E. D. OF N. Y.
CV - WW 20

E 712

January 22, 1971

Robert S. Persky, Esq.
Finley, Kumble, Underberg, Persky & Roth
477 Madison Avenue
New York, New York 10022

Re: Newburger, Loeb Reorganization

Dear Bob:

Thank you for your letter of January 21. To avoid any misunderstanding which may possibly exist, I wish to make clear that Mrs. Donoghue has acted and is acting at no one's "instructions". I have spoken to her at length on several occasions. I can state without reservation that she is making her own decision in this matter based on several considerations, both subjective and objective. If you had the pleasure of speaking with Mrs. Donoghue, you would quickly realize that one does not instruct her to do anything. She is very much her own person and does as she wishes for her own reasons.

With respect to Mabel Bleich, she will execute an extension letter and will deliver it to Larry Berkowitz today.

I would also like to confirm our conversation yesterday morning wherein you informed me that in the event Mrs. Donoghue does not consent to the reorganization, she will be paid out and will receive in cash the full amount of her partnership interest. Since her claim against the partnership is presently known, it will of course be included among the assumed liabilities set forth in Schedule A-2 to the reorganization agreement.

DEFENDANTS' EXHIBIT WW.

E 713

While on the subject of schedules, may I remind you that Larry Berkowitz promised some time ago that he would forward revised schedules to me. I have not yet received them. Would you please provide me with them as soon as possible.

I am informed that preliminary balance sheet and income statement figures are now available for December and have been supplied to the Exchange. Would you please forward copies to me at once together with income statements for the previous three months. I further request that well in advance of the closing, all interested parties should be provided with certified financial statements. This would avoid any possible claims later on that the transaction was entered into on the basis of inaccurate or incomplete information.

A copy of the extension letter being executed by Mabel Bleich is enclosed herewith.

Thank you for the cooperation you have shown in these matters.

Sincerely,

Arthur C. Silverman

ACS:mn
Enclosure

cc: Laurence Berkowitz, Esq.
Miss Mabel Bleich
Mrs. Jeanne Donoghue

a

DEFENDANT'S EXHIBIT
U. S. DIST. COURT
S. D. N. Y.

DEFENDANTS' EXHIBIT XX.

E. XX

29-G

E 714

January 22, 1971

BY HAND DELIVERY

Laurence Berkowitz, Esq.
Newburger, Loeb & Co.
5 Hanover Square
New York, N.Y. 10005

Re: Newburger, Loeb Reorganization

Dear Larry:

This letter will confirm your telephone advice to me late this afternoon that the Exchange had been informed earlier this afternoon that no reorganization would be consummated without the consent of both Miss Bleich and Mrs. Donoghue. You also informed me that a preclosing would be held on January 28 and the closing on February 11.

I regret any confusion caused by Miss Bleich's extension of capital withdrawal letter. As I explained to you today, the purpose of the last paragraph was simply to make clear that the extension was not to be deemed a waiver of or in any way prejudice her right to reject the reorganization plan and transfer of assets in the event any other limited partner refuses to acquiesce in the reorganization and transfer. Her letter was not a rejection of the plan, however.

I would also request that you express to the principals of Newburger, Loeb and to Messrs. Risher and Muh Miss Bleich's wish that any and all communications to her concerning the reorganization be made to me directly rather than to her. Since she is represented by counsel in this matter, I am sure you will agree that my request is reasonable and proper.

Very truly yours,

ACS:mn

Arthur C. Silverman

cc: Robert Persky, Esq.

DEFENDANTS' EXHIBIT YY.

29-C

E 715

January 25, 1971

CERTIFIED MAIL -
RETURN RECEIPT REQUESTED

Mr. Robert Newburger
Newburger, Loeb & Co.
5 Hanover Square
New York, N. Y. 10005

Re: Jeanne Donoghue

Dear Mr. Newburger:

As you know, Mrs. Donoghue has given notice of withdrawal, dated December 31, 1970, as a limited partner of Newburger, Loeb.

Request is hereby made on her behalf, pursuant to paragraph 3.2 of the Restated Articles of Limited Partnership dated as of February 26, 1970, that she be paid ten percent of her capital each month for the next five months, and that the remainder thereof be paid on the effective date of the withdrawal.

This request shall not be deemed a waiver of or in any way prejudice Mrs. Donoghue's right to immediate payment of her full partnership capital prior to any transfer of substantially all the assets of Newburger, Loeb without her consent.

Very truly yours,

ACS:mn

Arthur C. Silverman

DEFENDANTS' EXHIBIT YY.

29-F

E 716

February 11, 1971

BY HAND DELIVERY

Mr. Robert Newburger
Newburger, Loeb & Co.
5 Hanover Square
New York, New York 10005

Re: Mabel Bleich

Dear Mr. Newburger:

As you know, Miss Bleich has given notice of withdrawal, dated December 31, 1970, as a limited partner of Newburger, Loeb.

Demand is hereby made on her behalf, pursuant to paragraph 3.2 of the Restated Articles of Limited Partnership dated as of February 25, 1970, that she be paid ten percent of her capital each month for the next five months, and that the remainder thereof be paid on the effective date of the withdrawal. It is further demanded that accrued interest though December 31, 1970 in the sum of $1,363.75 be paid at once.

This request shall not be deemed a waiver of or in any way prejudice Miss Bleich's right to immediate payment of her full partnership capital and interest thereon in the event Newburger, Loeb attempts to or does transfer substantially all its assets to any third party without the consent of Miss Bleich.

Very truly yours,

Arthur C. Silverman

ACS:mn

also sent by hand to RN c/o Fowler Hamilton
also sent Certified mail - RK to RB

DEFENDANTS' EXHIBIT ZZ.

29-P

E 717

January 25, 1971

Mr. Robert Stern
Newburger, Loeb & Co.
5 Hanover Square
New York, N.Y. 10005

Re: Mabel Bleich and Jeanne Donoghue

Dear Bob:

I am in receipt of the audit confirmation form in respect of Jeanne Donoghue which reflects $75,000 as the size of her capital contribution. Does this reflect interest? If not, (1) when was the last interest payment and the amount thereof; and (2) how much interest is accrued and unpaid? Would you please give me the same information for Mabel Bleich.

Sincerely,

ACS:mn

Arthur C. Silverman

DEFENDANTS' EXHIBIT ZZ.

29-N E 718

Newburger, Loeb & Co.

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SOUND INVESTMENT SERVICE SINCE 1899

OFFICES
NEW YORK
LOS ANGELES

5 HANOVER SQUARE · NEW YORK, N. Y. 10004 · (212) 944-6300

January 26, 1971

Mr. Arthur C. Silverman
Golenbock and Barell
60 East 42nd Street
New York, N. Y. 10017

Dear Arthur:

Jeanne Donoghue's audit confirmation form does not reflect interest.

The last interest payment of $1,895.81, constituting interest for the third quarter, was paid to her in October. As at December 31, 1970, interest accrued and unpaid to Mrs. Donoghue for the fourth quarter amounts to $1,868.75.

The same information holds for Mabel Bleich in every respect, since the amount of her capital contribution is the same.

Sincerely yours,

RLS

Robert L. Stern

RLS:ijk

DEFENDANTS' EXHIBIT AAA.

E 719

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NEW YORK
LOS ANGELES

5 HANOVER SQUARE · NEW YORK, N. Y. 10004 · (212) 944-6300

January 28, 1971

TO: Jeanne G. Donoghue

FROM: Robert L. Stern

The following is a schedule of your limited capital account as of December 31, 1970:

Private Ledger Balance	$ 75,000.00
Capital Securities Account	
Security Values	
Cash Balance 11/27	
Dividends to be credited	
Municipal Interest to be credited	
Total:	- -
Interest on Capital	1,868.75
GRAND TOTAL	$ 76,868.75

0 0128

Ex. C

DEFENDANTS' EXHIBIT AAA.

Newburger, Loeb & Co.

E 720

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OFFICES
NEW YORK
LOS ANGELES

5 HANOVER SQUARE · NEW YORK, N. Y. 10004 · (212) 944-6300

January 28, 1971

TO: Mabel Bleich

FROM: Robert L. Stern

The following is a schedule of your limited capital account as of December 31, 1970:

Private Ledger Balance	$ 75,000.00
Capital Securities Account	
Security Values	
Cash Balance 11/27	
Dividends to be credited	
Municipal Interest to be credited	
Total:	- - -
Interest on Capital	1,868.75
GRAND TOTAL	$ 76,868.75

0 0129

Exh. D

DEFENDANTS' EXHIBIT BBB.

1/26/71

(1)

28-C

E 721

Dilger - invited for 2:30.
- Lewis optimistic even though some individuals may not get along.
- Dilger not a friend of the deal. Marginal financial position of entity.
- Dilger has been sued on a number of occasions.
-

- Pursley said - repairs must fall to bypass Jeanne.
- concluded that all signatures were on reliance on one another.
- assumes that Jeanne will be paid.

Steefel - could about Jeanne, but not Mabel. Everyone else takes the same view.

- Query re: Gross - will he litigate? Lewis spoke to Blandel, and who said there'll be litigation. Lewis spoke to Charles.

- Discussion re CG: Steefel - would you go along given his $100 + paper? would you give him a good release?
Pursley points re: Charles Steefel feels Mabel would be disruptive. Let him go through & let him sue.

- Discussion ended @

DEFENDANTS' EXHIBIT BBB. E 722

- Releases of general partners by limited partners & releasing each other

Mabel will give Cuy. will release Mabel, will press?

Rosenman says this is essential, but not w.r.t. claims of third parties.

- Discuss re: Bruder - in addition to being partner, he had a valid deal. He raised $ for $ for capital. Verbally substituted as lessee. Bruder has an interest & strong deal. He sued for rent & we moved to substitute.

- Forms: Proof of atty from our client. To review - amnty & sign docmts.

Stapel wants notes to be delivered to Lippel because of fee problem. Lien on notes.

Rosenman doesn't want to limit exposure
Berkowitz states he is very specific about loss.

Rosenman → Jimmy Brought - if no signature, will be litigation. Speak w.r.t Mabel.

Really; - Jimmy really is an underlying creditor claim.

DEFENDANTS' EXHIBIT BBB.

E 723

Al Dunkin attended.

- Dun Shapiro says – if you want concessions, get them now, you won't get them later.
- Lewis absolutely feels that the deal blows if Riebel won't go along.

(1) Riebel addresses the meeting

Ltd. Partners – Riebel has schedule of value of their account.
Total: $2,346,231.30
Interest is last quarter interest.
Interest on debentures will be picked up as of 1/1/71.

Subordinated lenders: value of their debts change each month (apx).

MV - Dunkin			$147,000
Lobel, M.	cash debent	$61,164	
	MV	140,750	79,581
Lobel, I	cash debt	56,348	
	MV	312,133	255,785
Polaty (both)	CV	167,661	
	MV	99,620	267,281

DEFENDANTS' EXHIBIT BBB.

E724

Shirley Neuberger CU 42,460 — 64,375

MV 21,915

Betty Neuberger MV 194,400 — 194,400

TOTAL — 1,008,422

General Partners (complete + distribution of interest, income & interest charges)

Lew S	+	693,906
Robert S	−	391,240
Richard S	+	85,482
Andrew N	−	478,696
Robert N	−	129,485
Edward Holt	+	8,719
Daniel K	−	131,133
Neil F	−	7,910
J F Settel	−	59,375
Lewis B.	+	8,553
George Cornell	−	21,242
Fred K.	+	1,315
William McGowan	−	12,658
Sanford Loeb Berg	+	909
Edward R	+	656
Jack Schaffer	+	327
Julie Schaffer	−	22,648
Charles Slocum	−	23,685
Robert Reeves	+	1,315

Gross income & deduct gross income of partnership & interest

Withdrawn D. Rogers

He is working up his deficit.

(5)

DEFENDANTS' EXHIBIT BBB.

E 725

John Ruddick - 5,959
Joseph Sanders - 6,545
Charles Ames + 162,734

Must add: interest income & interest charges.

Peat Marwick will have ~~tendon~~ tentative balance sheet on 2/5/71. Rishel has unaudited December figures. Hope to have certified figures on or about 2/11/71

DEFENDANTS' EXHIBIT CCC
29-L

E 726

February 1, 1971

BY HAND DELIVERY

Robert S. Persky, Esq.
Finley, Kumble, Underberg, Persky & Roth
477 Madison Avenue
New York, New York 10022

Re: Newburger, Loeb Reorganization

Dear Mr. Persky:

I have met with Miss Bleich at length and regret to inform you that in view of Mrs. Donoghue's refusal to consent to the reorganization and for other reasons, Miss Bleich feels that it would not be in her best interest to consent to the reorganization. Accordingly, I am authorized by Miss Bleich to notify you of her rejection of the plan of reorganization.

At your request, and in order to facilitate any further discussions which may possibly alter Miss Bleich's decision, I shall withhold notifying the Exchange until Thursday morning, February 4.

Very truly yours,

ACS:mn

Arthur C. Silverman

cc: BY HAND DELIVERY

Arthur Richenthal, Esq.
122 East 42nd Street
New York, New York

DEFENDANTS' EXHIBIT CCC.

E 727

cc: Robert Steefel, Esq.
Stroock, Stroock & Lavan
61 Broadway
New York, New York

Mr. Robert Newburger
Newburger, Loeb & Co.
5 Hanover Square
New York, New York

Kenneth Bialkin, Esq.
Willkie, Farr & Gallagher
One Chase Manhattan Plaza
New York, New York

DEFENDANTS' EXHIBIT DDD.

DEFENDANTS EXHIBIT

29-M

E 728

DDD

February 1, 1971

Mr. Robert Newburger
Newburger, Loeb & Co.
5 Hanover Square
New York, New York 10005

Dear Mr. Newburger:

I regret to inform you that I am terminating my employment at Newburger, Loeb & Co. effective at once. My decision is made reluctantly, but I am sure that you will agree that in view of my refusal to consent to the Newburger, Loeb reorganization, it would be better if I severed my employment ties with Newburger, Loeb.

Would you please see to it that my mail is forwarded to me at my home, 1020 Grand Concourse, Bronx, New York, 10452. I would also appreciate your having the Personnel Department notify the various insurance companies of my termination in order that I may take advantage of conversion privileges.

Sincerely yours,

Mabel Bleich

MB:mn

cc: Arthur C. Silverman, Esq.

DEFENDANT'S
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
EEE

DEFENDANTS' EXHIBIT EEE.
29-IE 729

Loeb & Co.
. American Stock Exchange
ERVICE SINCE 1899

OFFICES
NEW YORK
LOS ANGELES

RE · NEW YORK, N. Y. 10004 · (212) 944-6300

February 2, 1971

TO: LIMITED PARTNERS
SUBORDINATED ACCOUNT HOLDERS

Gentlemen:

Mabel Bleich has informed us by letter dated February 1, 1971 from her attorneys, Golenbock and Barell, that she has withdrawn from the reorganization of Newburger, Loeb & Co.

Paul Risher has advised me that if Miss Bleich withdraws the corporation cannot be formed and in all likelihood the firm of Newburger, Loeb & Co. will be liquidated in accordance with the request of the New York Stock Exchange. Therefore, a letter to the attorneys for all entities was sent by hand today advising these attorneys that if Miss Bleich does not consent to the reorganization on or before 4:00 p.m. Thursday, February 4, 1971 the closing scheduled for February 11th will be cancelled and the New York Stock Exchange will be notified.

Very truly yours,

Robert L. Newburger

(1)

28-R

DEFENDANTS' EXHIBIT FFF.

E 730

Stefel - Instructions.

Mandel - a good working assumption that Jeanne will go along if CG does; if Jeanne does, Mabel will. any deal must settle all outstanding debts and claims.

Stefel - will make a deal today or no deal.

CG: cash, notes & interest in prop.

Stefel sees no possibility of his getting cash. Many people would want that he gets cash & others ~~get~~ get paper. Ltd. partners support his getting ~~a~~ corporate notes in an appropriate amount & exchange of releases.

Mandel - what kind notes?

Stefel - Stefel personally thinks the same notes that Ltd. partners getting. No better or worse.

30% - 12/31/73
30% - 12/31/74
40% - 12/31/75 — Fr tchnl reasons - ~~1~~ separated by a ~~spread~~ spread of preferred stock.

Interest if issued - 2% over prime but less 9%.

Stefel to non-voting stock.

Mandel - Principle objective $100M in cash & cash equivalent

A farmer w/o seed. Needs money to go - not ~~reasons~~ Bank debts eat up tax shelter. Loans incurred + bad investments. Numerous suits.

He has claims against his former partners to the full amount of his equity.

DEFENDANTS' EXHIBIT FFF.

E 731

Frank - 1/1/69 - when N/L entered at time, CG borrowed $200M from FNCB.

Case if N/L agreed to pay CG, must pay FNCB because of agreement w/ bank.

General discussion - how much is ~~left~~ owed to CG?

Mandel - critical question is the cash.

Steffl - dismal as cash is utterly crucial. CG is one of 20 involved in this. Each one of them has a personal position, each of them having their life's savings in this. Every person would like cash. From an equity point of view, why is CG not deserving of cash. If no deal, he won't have cash, he will only have lawsuits. If he takes Steffl's deal, he can do other things on Wall St. While law suits, he can't do anything. If no deal he's in bad shape; if a deal he has a liquid situation.

Also, where can you get 5% of cash?

Frank - Represents 6 million subordinated lenders. They consented to agreement as if was a deal as is. Frank has no authority to sign one which would substantially change the present deal.

Mendel - if a deal, NYX will extend.

all others - no likely extensions.

Lewis - his clients are not opposed to deding w/CG.

Perley - Prevent GP's (cutting Lewis B preferred) may object.

Mel - eventual GP's who have resigned are taking Lewis B preferred.

Mendel - Right away, rather than take a deal which precipitates realization, he's better off if "nature takes its course". CG feels he ~~~~ has claims against other GPs & can collect.

Stelfel - More likely that other partners can get to agree Chadis.

Claims: (1) use of prep fund w/o authorization in today
(2) Berkley claim
(3) Investment prep funds & lost on debt to go into a basketball team.
(4) ~~Lost~~ Leave at time when firm in difficulties
Frank told by Hermes / INI Prop, Rowe offered $15,000 to let NL out / Leave & CG refused w/o consulting general partners.

Mandel - CG would rather be dead twice than once.

We are willing to negotiate a settlement w releases. But releases are beneficial to everyone.

Frank - No settlement if Oss gets cash.

Stiefel - Where will money ~~company~~ come from?

Mandel - (1) drop deal
(2) go ahead w/o Mabel or Jeanne
(3) arrange w/ Chaels

If nothing can be arranged w/him, he'd just as soon see deal dead.
If you'd willing to proceed w/o Mabel or Jeanne, & ~~wouldn't~~ didn't, you'd better off taking one / CG.

Mark - close will be worth point.

Abrams - let them try to collect.

Pressly - if CG truly believes $107,000 & no offsets & deal goes thru w/o J + M, he'll use Jeanne's $75 + Mabel saved from disaster. He can reject this alternative only if he believes the $167 M is free / offsets.

(5)

DEFENDANTS' EXHIBIT FFF.

E 734

Mandel - he realizes that his claim will be resisted.

This isn't good for CG+ not good for corp.

Frank - more collectively from inside new Corp.

Mandel - CG will have to collect from pts.

Frank - would Adolphus Rogerberg who is pt/signatory of K consent to a deal when CG gets cash.

Mandel - maybe not possible. ~~but if~~ We'd rather have no deal than this one.

Stiefel - how can he reject this?

Rosiles - trading w Raffkind for CG.

Mandel - mgt. made a mistake in sending a letter to Raffkind. This letter sent in response to a letter for clearance.

Frank - CG insisted on this with respect clause.

(6)

DEFENDANTS' EXHIBIT FFF.

E 735

Richie. The print — CG has employment opportunities & capital.

* * *

Mankel — if a vibrant grand pastures don't have clients against him, he can get his hands on money relatively quickly

Perley — would advise carpenter not to penalize Jerome & would pay her out in the 6 month payout.

Mankel — Here's the money.

Shefet — have Mankel pay delay. Pay out Jerome & let Jerome pay Charles.

Mankel — if he'll let $75M payout w/ 6 months

Mankel — let's assume that CG provides relief

DEFENDANTS' EXHIBIT FFF. E 736

Mandel: Concurrent or cash portion.
Whoever gets the $75,000 must have the
purpose secured (bankable).

Persky: It is terrible if Jeanne D. ~~goes~~ doesn't appear.

Persky - gives Charles Series B preferred like Kingsbury
give him some cash
~~give Charles release~~ waiver & offset that corporation
has against him personally.

Mandel - EC wants notes.
Persky - if firm successful, everyone successful.

Mark: Persky's deal is the best we can do.

Persky: 2 Ltd's release grounds.
Would grounds release each other?

Lewis: Subordinated lenders won't release.

Persky: Corporation wants no litigation.
Everybody should release one another.

Bucks: Andy N. - two year cutback as stated up.
releases
all pieces signing this agreement.

DEFENDANTS' EXHIBIT FFF. E 737

~~Pelotin will give~~

Subsidiaries Lenders will not execute releases
Ltd. Partners will give releases.

Releases exclude right to contribution or
third party claims.

Ben Pykel
Bob Reese
Jim Settel
Nat Frank. – why should he give a release?

Conversation w/ Charles Goss
then returned.

Mandel ① Stock Exchange – approval
② Problem of routing money.
③ Won't accept both liquid but will negotiate.
④ He will talk to general partners & will get $25,000
⑤ Kind of paper – ltd partnership papers.

Ⓐ Steefel disgusted. – CG is being a pig!!
Ⓑ Pushy walks out.

10 am Monday Morning.

E 738

DEFENDANTS' EXHIBIT GGG.

(SPACE BELOW FOR FILING STAMP ONLY)

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CHARLES SLOANE, FRED KAYNE,

Plaintiffs

v.

CHARLES H. GROSS,

Defendant

Civil Action

File No. 71-264-JWC

COMPLAINT FOR DAMAGES FOR VIOLATION OF SECURITIES EXCHANGE ACT; FRAUD; AND BREACH OF CONTRACT

Plaintiffs for cause of action allege:

FIRST CAUSE OF ACTION

1. Jurisdiction of this action is based upon the provisions of Section 22 of the Securities Act of 1933, Section 27 of the Securities Exchange Act of 1934. Defendant, in doing the acts described herein, utilized the mails and means and instrumentalities of interstate commerce. This court has pendent jurisdiction of that part of this action which is based upon state law.

2. This court also has jurisdiction over this action based on diversity of citizenship. Plaintiffs are both residents of California. Defendant is a resident of New York. The amount in controversy exceeds $10,000.00.

3. Venue properly lies in this judicial district for the reason that the acts and practices described herein, culminating in the sale of securities as herein described, occurred in this

judicial district. The representations relied upon by plaintiffs were part of the same series of transactions culminating in the sale of the same type of security.

4. At all times mentioned herein, Newburger, Loeb & Co. was a limited partnership formed pursuant to Article VIII of the New York Partnership Law.

5. At all times mentioned herein, defendant was a general partner of Newburger, Loeb & Co.

6. At all times prior to buying the securities mentioned herein, plaintiffs were registered representatives of McDonnell and Co., located in Los Angeles, and each was engaged as a stockbroker for that firm.

7. In or around September, 1969, defendant met with plaintiffs at which time negotiations were initiated which culminated in the matters herein set forth. During the period between September, 1969, and January, 1970, defendant represented to plaintiffs that Newburger, Loeb & Co. was (1) a financially strong entity, having a general partnership capital of $2,206,250.00, (2) was operating at a current profit, (3) was in good standing with the New York Stock Exchange, and (4) was staffed by competent management personnel, which was engaged in management practices which were safe, accepted, and up to the standard utilized in the stockbrokerage business.

8. The representations so made by defendant were in fact false. In truth and in fact, (1) the existing capital was materially less than $2,206,250.00, (2) the partnership was not operating at a current profit, (3) the partnership was not in good standing with the New York Stock Exchange, and (4) the partnership was not staffed by competent management personnel for the reason that it engaged in management practices which were neither safe, accepted, nor up to the standard utilized in said stockbrokerage business.

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9. When defendant made said representations, he knew them to be false; such statements were made by defendant with the intent to defraud and deceive plaintiffs and to induce them to act in the manner alleged in paragraph 10.

10. Plaintiffs, at the time said representations were made, were ignorant of their falsity but believed them to be true. In reliance thereon, plaintiffs were induced to and did purchase a partnership interest in the limited partnership of Newburger, Loeb & Co., at a cost of $50,000.00 each and entered into a limited partnership agreement, a copy of which is attached hereto, marked "Exhibit A", and incorporated herein by this reference; had plaintiffs known the facts, they would not have taken such action. An interest in a limited partnership is a security within the definitions utilized in the Securities Act of 1933 and the Securities Exchange Act of 1934. Since discovering the facts alleged herein and in or about November, 1970, plaintiffs have terminated their partnership interest in said partnership, realizing a total loss of their partnership interest.

11. Said devices, schemes, artifices, untrue statements of material facts, and courses of business operated as a fraud or deceit upon the plaintiffs and were in violation of Section 10 of the Securities Exchange Act of 1934, all to the damage of plaintiffs in the amounts hereinafter set forth.

12. As a direct and proximate result of the matters herein alleged, plaintiffs have suffered damage in the following amounts:

12.1 Out-of-pocket losses in the amount of $50,000.00 each or $100,000.00; and

12.2 Loss of profits due to their association with Newburger, Loeb & Co. in the amount of $500,000.00 each or $1,000,000.00; and

12.3 Exposure to vast partnership liabilities in an amount of at least $1,000,000.00; plaintiffs seek indemnification

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in relation to said amount and will ask leave of court to amend this complaint when said amount is definitely ascertained.

SECOND CAUSE OF ACTION

13. Plaintiffs reallege and incorporate herein by reference paragraphs 1 through 10 hereinabove set forth.

14. Said devices, schemes, artifices, untrue statements of material facts, omissions to state material facts, acts, practices, and courses of business operated as a fraud or deceit upon the plaintiffs and were in violation of Section 12 of the Securities Act of 1933, all to the damage of plaintiffs in the amounts hereinafter set forth.

15. As a direct and proximate result of the matters herein alleged, plaintiffs have suffered damage in the following amounts:

15.1 Out-of-pocket losses in the amount of $50,000.00 each or $100,000.00;

15.2 Loss of profits due to their association with Newburger, Loeb & Co. in the amount of $500,000.00 each or $1,000,000.00; and

15.3 Exposure to vast partnership liabilities in an amount of at least $1,000,000.00; plaintiffs seek indemnification in relation to said amount and will ask leave of court to amend this complaint when said amount is definitely ascertained.

THIRD CAUSE OF ACTION

16. Plaintiffs reallege and incorporate herein by reference paragraphs 1 through 10 hereinabove set forth.

17. By engaging in the acts hereinabove alleged, defendant acted in contravention of state law.

18. In doing the things hereinabove alleged, defendant acted maliciously and was guilty of wanton disregard of the rights and feelings of plaintiffs, and by reason thereof plaintiffs demand exemplary and punitive damages against defendant in the sum of $500,000.00 each or $1,000,000.00.

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DEFENDANTS' EXHIBIT GGG.

19. By reason of the facts hereinabove alleged, plaintiffs have been damaged in the following amounts:

19.1 Out-of-pocket losses in the amount of $50,000.00 each or $100,000.00;

19.2 Exemplary and punitive damages in the amount of $500,000.00 each or $1,000,000.00; and

19.3 Exposure to vast partnership liabilities in an amount of at least $1,000,000.00; plaintiffs seek indemnification in relation to said amount and will ask leave of court to amend this complaint when said amount is definitely ascertained.

FOURTH CAUSE OF ACTION

20. Plaintiffs reallege and incorporate herein by reference paragraphs 1 through 10 hereinabove set forth.

21. During the period between February, 1970, and July, 1970, defendant was a member of the executive committee of Newburger, Loeb & Co. which was authorized to exercise full power and authority to manage the affairs and business of the partnership on behalf of the remaining partners of Newburger, Loeb & Co. Defendant was charged with a fiduciary duty in relation to said matters both as a general partner and as a member of the executive committee.

22. During said period, defendant mismanaged the assets of the partnership and exceeded his authority in breach of his fiduciary relationship to the remaining partners of Newburger, Loeb & Co., including the plaintiffs herein.

23. As a proximate result of the conduct hereinabove described, plaintiffs were damaged by exposure to vast partnership liabilities in an amount of at least $1,000,000.00; plaintiffs seek indemnification in relation to said amount and will ask leave of court to amend this complaint when said amount is definitely ascertained.

24. Also as a proximate result of the matters stated

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hereinabove, plaintiffs suffered loss of profits due to their association with Newburger, Loeb & Co. in the amount of $500,000.00 each or $1,000,000.00.

FIFTH CAUSE OF ACTION

25. Plaintiffs reallege and incorporate herein by reference paragraphs 1 through 10 hereinabove set forth.

26. In inducing the sale of the securities as hereinabove alleged, defendant entered into an oral contract with plaintiffs wherein and whereby, in consideration of plaintiffs entering into Exhibit A and payment of $50,000.00 each, defendant promised that Newburger, Loeb & Co. (1) was a financially strong entity having a general partnership capital of $2,206,250.00, (2) was operating at a current profit, (3) was in good standing with the New York Stock Exchange, (4) was staffed by competent management personnel which was engaged in management practices which were safe, accepted, and up to the standard utilized in the stockbrokerage business, and (5) defendant promised that he would exercise sound business judgment in his capacity as managing partner of Newburger, Loeb & Co. and would act as a fiduciary to the remaining partners, including the plaintiffs.

27. Plaintiffs performed each and every term and condition on their part to be performed and acted in reliance upon the representations of defendant.

28. Defendant has failed and refused to perform the terms and condition on his part to be performed and has acted in breach of his fiduciary duty to plaintiffs in that (1) said partnership was not a financially strong entity having general partnership capital materially less than $2,206,250.00, (2) was not operating at a current profit, (3) was not in good standing with the New York Stock Exchange, (4) was not staffed by competent management personnel for the reason that it was engaged in management practices which were not safe, accepted, or up to the

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standard utilized in the stockbrokerage business, and (5) defendant did not exercise sound business judgment in his capacity as managing partner of Newburger, Loeb & Co. and breached his fiduciary relationship to the remaining partners, including the plaintiffs.

29. As a direct and proximate result of the failure and refusal of defendant to perform the terms and conditions on his part to be performed and of his breach of his fiduciary duty, plaintiffs have sustained out-of-pocket losses and loss of profits and have been exposed to vast partnership liabilities for which plaintiffs seek indemnity, all to their damage in an amount of at least $2,500,000.00.

WHEREFORE, plaintiffs pray judgment against defendants as follows:

1. Out-of-pocket losses of $100,000.00;

2. Damages for exposure to partnership liabilities in the amount of at least $1,000,000.00;

3. Damages for loss of profits in the amount of $1,000,000.00;

4. Punitive damages in the amount of $1,000,000.00;

5. Costs of suit incurred herein; and

6. Such other and further relief as the court may deem just and proper.

ERVIN, COHEN & JESSUP

By /s/
Dan W. Lacy
Attorneys for Plaintiffs

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DEFENDANTS' EXHIBIT HHH.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

E 745

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WYMAN, BAUTZER, ROTHMAN, & KUCHEL
9601 Wilshire Blvd., Suite 726
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Charles Sloane, et al. v. Charles H. Gross

Civil Case No. 71-264-JWC

You are hereby notified that Judgement of Dismissal of First and Second Couses of Action, and Order staying proceeding on Third, Fourth And Fifth Causes of Action, in the above-entitled case, was entered in the docket on Sept. 7, 1971 (Date).

You are also notified that if you introduced exhibits into evidence in this case, they must be claimed at this office within thirty days after receipt of this notice, if no appeal is taken. Unless you respond within thirty days, they will be destroyed or otherwise disposed of pursuant to Local Court Rule 20(a)

[X] Copy Enclosed [ ] Copy Not Enclosed

Emory G. Hatcher, Clerk
UNITED STATES DISTRICT COURT

Date of Mailing: Sept. 7, 1971

By R L Byer
R. L. Byer, Deputy Clerk

Civ 27 3/71
Notice of Entry of Judgment

DEFENDANTS' EXHIBIT HHH.

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CENTRAL DISTRICT OF CALIFORNIA
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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CHARLES SLOANE, FRED KAYNE,

Plaintiffs,

vs.

CHARLES H. GROSS,

Defendant.

Civil Action

File No. 71-264-JWC

JUDGMENT OF DISMISSAL (FIRST AND SECOND CAUSES OF ACTION)

In accordance with this Court's Memorandum Opinion filed August 24, 1971,

IT IS ORDERED AND ADJUDGED that the First and Second Causes of Action be and they hereby are, dismissed with plaintiffs to bear all costs of action.

Dated: September 7, 1971.

JESSE W. CURTIS

Jesse W. Curtis
United States District Judge

DEFENDANTS' EXHIBIT HHH.

E 747

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SEP 7 - 1971

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SEP 7 1971

CLERK, U. S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
By

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CHARLES SLOANE, FRED KAYNE, Plaintiffs, vs. CHARLES H. GROSS, Defendant.	Civil Action File No. 71-264-JWC ORDER STAYING PROCEEDINGS (THIRD, FOURTH AND FIFTH CAUSES OF ACTION)

In accordance with this Court's Memorandum Opinion filed August 24, 1971,

IT IS ORDERED that the Third, Fourth and Fifth Causes of Action, and each of them, be and they are hereby stayed, pending arbitration in accordance with the rules of the New York and American Stock Exchanges.

Dated: September 7, 1971.

JESSE W. CURTIS

Jesse W. Curtis
United States District Judge